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IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1981

MARY ELLEN CRAWFORD,
a minor, etc., et al.,

Petitioners,

vs.

BOARD OF EDUCATION OF THE CITY OF LOS ANGELES.

ON WRIT OF CERTIORARI TO THE
CALIFORNIA COURT OF APPEAL
SECOND APPELLATE DISTRICT

JOINT APPENDIX

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PETITION FOR WRIT OF CERTIORARI FILED
JULY 8, 1981
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August 1, 1963	Petition for Writ of Mandate filed
August 14, 1963	Respondent's Answer to Petition filed
July 6, 1966	Second Amended Petition for Writ of Mandate filed
October 14, 1966	Respondent's Answer to Second Amended Petition filed
October 28, 1968-June 9, 1969	Trial
May 12, 1970	Judgment and Writ of Mandate entered in favor of petitioners and against respondent
June 28, 1976	California Supreme Court modified and affirmed judgment and remanded case to Superior Court (17 Cal.3d 280, 531 P.2d 28 [1976])
March 23, 1977-June 28, 1977	Hearings in Superior Court regarding the first desegregation plan submitted by respondent
July 5, 1977	Order entered by Superior Court rejecting respondent's first desegregation plan and ordering respondent to submit a new plan

January 23, 1978- January 27, 1978	Hearings in Superior Court regarding second desegregation plan submitted by respondent ("Plan 2")
February 7, 1978	Order entered by Superior Court declaring that "patently ... plan[2] does not comply with [the] standard" required by the California Supreme Court's opinion but that it was "an important initial step toward the eventual compliance with the writ of mandate" and permitting respondent to implement the plan beginning in Septemberr 1978 subject to further examination by the Superior Court to remedy the omissions
May 30, 1979	Superior Court entered Minute Order continuing hearings to reexamine Plan 2 and prohibiting any change in the plan without court approval
July 30, 1979	Superior Court entered Minute Order denying petitiners' motion to expand Plan 2
October 22, 1979- April 11, 1980	Hearings to reexamine Plan 2 and consider alternative desegregation plans, including an all-voluntary plan proposed by respondent

November 15, 1979	Based upon the passage by the voters of an amendment to Article I, Section 7(a) of the California Constitution at the November 6, 1979 election ("Proposition 1"), respondent filed application to modify Superior Court's orders of February 7, 1978, and May 30, 1979, by terminating mandatory reassignment of pupils for the purposes of desegregation
December 19, 1979	Petitioners filed reply to respondent's application, contending that Proposition 1 is unconstitutional
January 21, 1980	Respondent filed motion to strike unofficial reports contained in appendix of petitioners' reply to respondent's application
May 19, 1980	Superior Court entered Minute Order (1) denying respondent's application to modify the February 7, 1978, and May 30, 1979, Orders, (2) denying as moot petitioners' argument that Proposition 1 is unconstitutional, and (3) declaring moot respondent's motion to strike unofficial reports contained in petitioners' appendix

July 7, 1980	Superior Court entered order requiring a new desegregation plan beginning in September 1980, which included student assignment for purposes of desegregation ("Plan 3")
July 10, 1980	Respondent filed Notices of Appeal from the preceding two Superior Court orders
August 6 and September 4, 1980	Court of Appeal entered stay orders modifying Plan 3 but permitting it to be implemented in September 1980 as modified
September 5, 1980	Petitioners filed Notice of Appeal and Designation of Record on Appeal from Superior Court's Order After Trial Upon Plan II and the Proposed All-Voluntary Plan dated July 7, 1980
December 19, 1980	Court of Appeal entered order and opinion vacating the Superior Court's May 19 and July 7, 1980, orders and declaring Proposition 1 constitutional (113 Cal. App.3d 633, 170 Cal.Rptr. 495 [1980], as modified January 15, 1981)
March 11, 1981	California Supreme Court denied hearing

SUPERIOR COURT, FINDINGS OF FACT AND CONCLUSIONS OF LAW, DATED MAY 12, 1970
[2 C.T. 543 - 3 C.T. 614]

FINDINGS OF FACT

I. The following allegations of the Pet. were admitted by the Ans. and therefore accepted by the Court as true:

I.1 "Respondent Board of Education of the City of Los Angeles (hereafter referred to as 'Respondent') is a governing agency administering the public schools with the district." (Par. 5 of Pet. admitted by Par. III of Ans.)

II. The following facts were either stipulated to or admitted or conceded, and therefore accepted by the Court as true:

II.1 "1. Petitioner Dolly Ruth Miles was a fourteen year old Negro child attending Markham Junior High School within the Los Angeles City School District.

"2. Petitioner Verde Darnell Miles was an eleven year old Negro child attending Ritter Elementary School within the Los Angeles City School District.

"3. Petitioner Maryann Miles was a seven year old Negro child attending public school within the Los Angeles City School District.

"4. Petitioner David Rodriquez was a six year old child of Mexican descent attending public school within the Los Angeles City School District.

"5. Petitioner Patricia Ann Sanchez was a twelve year old child of Mexican descent attending Soto Street Elementary School within the Los Angeles City / School District.

"6. Petitioner Raymon Jose Sanchez was a twelve year old child of Mexican descent who was enrolled in, and who subsequently attended, Hollenbeck Junior High School within the Los Angeles City School District.

"7. Petitioner Raoul Joaquin Sanchez was a twelve year old child of Mexican descent who was enrolled in, and who subsequently attended, Hollenbeck Junior High School within the Los Angeles City School District.

"8. Petitioner Karen Patricia Lynn Wheeler was a five year old Negro child who was enrolled in, and who subseqently attended, public school within the Los Angeles City School District.

"9. Petitioner Loretta May was a fourteen year old Negro child attending Markham Junior High School within the Los Angeles City School District.

"10. Petitioner Lenard May was a twelve year old Negro child attending Markham Junior High School within the Los Angeles City School District.

"11. Petitioner Autumn Renee Wright was a five year old Negro child who was enrolled in, and who subsequently attended, Trinity Street Elementary School within the Los Angeles City School District.

"12. Petitioner Alfred Graylin Wright was an eight year old Negro Child attending Mar Vista Elementary School within the Los Angeles City School District.

"IT IS FURTHER STIPULATED AND AGREED that:

"13. Annie Mary Miles, the guardian ad litem of petitioners Dolly Ruth Miles, Verde Darnell Miles and Maryann Miles is a Negro lady.

"14. Celia Rodrequez, the guardian ad litem of petitioner David Rodriquez, is a lady of Mexican descent.

"15. Josefa Sanchez, the guardian ad litem of petitioners Patricia Ann Sanchez, Raymon Jose Sanchez and Raoul Joaquin Sanchez, is a lady of Mexican Descent.

"16. Kaye Wheeler, the guardian ad litem of petitioner Karen Patricia Lynn Wheeler, is a Negro lady.

"17. Lucille May, the guardian ad litem of petitioners Loretta May and Lenard May, is a Negro lady.

"18. Margaret Wright, the guardian ad litem of petitioners Autumn Renee Wright and Alfred Graylin Wright, is a Negro lady." ("STIPULATION", dated January 26, 1970, Court's Exh. 79 for identification.)

II.2 "Respondent does not generally provide transportation for 'open school permits'." (Ans. to Interrogatory [Interr.] No. 7 (Pet's. 31-A.)) [Hereinafter: Petitioner's Exhibits will be designated "P.", followed by its number; Respondent's Exhibits will be designated "R.", followed by its designation; Points and Authorities filed will be designated, as to Petitioners, "P. Pt.A.", followed by the date of filing, and, as to Respondent, "R. Pt.A.", followed by the date of filing.]

II.3 "Permit policies of the Defendant (Exh. 3-C) do not provide free transportation or its equivalent to any pupil who was granted a permit to transfer

pursuant to said policy." (Ans. to "REQUEST FOR ADMISSION NO. 12" (P. 31-A, p. 14).)

II.4 "Exhibit [P.] 19A shows the date of original construction of each school listed in Exhibit A [of the Pet.] It also shows the year the original school was replaced." (Ans. to Interr. No 19 (P. 31-A, p. 166).)

II.5 "With respect to each of the schools listed in Exhibit A [of Pet.], the total amount expended each year in capital improvements to said school, commencing with school year 1962-63, is indicated in Exhibit [P.] 21A." (Ans. to Interr. No. 21 (P. 31-A, p. 166).)

II.6 "With respect to each of the schools listed in Exhibit B [of Pet.[, the total amount expended each year in capital improvements to said school, commencing with shcool year 1962-63, is indicated in Exhibit [P.] 21A." (Ans. (P. 31-B, p. 379).)

II.7 "That the subject matter of this action is a matter of interest to Negro pupils and pupils of Mexican descent attending the schools listed in Exhibit

A hereto." (Request for Admission No. 248 (P. 31, p. 114), admitted by Ans. (P. 31-B, p. 379).)

II.8 "Defendant maintains no records of racial or ethnic breakdown of student body population prior to November, 1966. * * * The following factors were not studied or considered because they would involve a change in existing policies of the Board of Education:

"(i) The effect of possible pairings or other combinations of schools with revised grade patterns;

"(ii) The effect of other approaches to improving the ethnic balance in the relevant areas and the District as a whole." (Part of Ans. to Interr. No. 151 (P. 31-B, pp. 303-304).)

II.9 "Defendant admits that the number of Negro and Mexican-American pupils attending school in the District is too large to permit all such pupils to be parties to this action." (Portion of Ans., Interr. No. 245 (P. 31-B, p. 379).)

II.10 "That all of the demands, plans, or requests specifically set forth in paragraph 16 of the Petition

were made upon respondent." (Ans. to Request for Admission No. 279 (P. 31, p. 118; 31-B, p. 391).)

II.11 That partial integration of the District would not be effective; and, "that the only way to have effective integration is at least district wide." That partial integration or attempted partial integration of the District, "for example, around the periphery of the ghetto, would not be an efficacious means of integrating these areas." (Stip., March 27, 1969; Transcript, Vol. 42, pp. 7751-54, 7774, line 6, to line 14, p. 7775.)

III. The following facts have been heretofore judicially found and adjudged as existing by the Supreme Court of the United States. (**Brown v. Board of Education of Topeka** [Brown I] (May 17, 1954), 347 U.S. 483, 74 Supreme Court 686, 98 L. ed. 873, 880-881.) The Court and the parties hereto are bound thereby. Board, as the agent and instrumentality of the State of California [State], is collaterally estopped from disputing said facts so found.

(i) "Today, education is perhaps the most important function of state and local governments. Compulsory school attendance laws and the great expenditures for education both demonstrate our recognition of the importance of education to our democratic society. It is required in the performance of our most basic responsibilities, even service in the armed forces. It is the very foundation of good citizenship. Today it is a principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him to adjust normally to his environment. In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the state has undertaken to provide it, is a right which must be made available to all on equal terms. * * *

"Does segregation of children in public schools solely on the basis of race, even though the physical facilities and other 'tangible' factors may be equal, deprive the children of the minority group of equal educational opportunities? We believe that it does."

'" * * * his ability to study, to engage in discussions and exchange views with other students, and, in general, to learn his profession.' Such considerations apply with added force to children in grade and high schools. To separate them from others of similar age and qualifications solely because of their race generates a feeling of inferiority as to their status in the

community that may affect their hearts and minds in a way unlikely ever to be undone."

"We conclude that in the field of public education the doctrine of 'separate but equal' has no place. Separate educational facilities are inherently unequal."

IV. This Court additionally finds true:

IV.1 Throughout the following Findings of Fact and Conclusions of Law:

(i) The word "segregated" as it refers to schools, and the words "segregated schools", without further description or elaboration or qualification thereof, such as "de jure" or "de facto" or "white", denote a school or schools in which the minority group (i.e., Negro, Mexican-American and Orientals) comprise all or substantially all or substantially in excess of fifty per cent of the student body of such school or schools; and

(ii) The words "racial imbalance" denote a school or schools whose student body or student bodies do not in its or their racial or ethnic composition approximately or substantially conform to the

approximate racial and ethnic composition of all Board's students in the District; and

(iii) The words "segregated white" or "white segregated" or "white" denote a school or schools whose students are all, or substantially all, or substantially in excess of 50%, White; and

(iv) Board is the governing Board of the Los Angeles Unified School District of Los Angeles County, an agency and instrumentality of the State of California [State], and therefore the word "State" or "State action" or "State involvement" refers to action or omission by said District through Board inasmuch as State is not directly a party hereto; and

(v) The word "District" denotes the Los Angeles Unified School District of Los Angeles County, of which Board is the governing body; and

(vi) The word "minority" denotes and includes students of Negro, Mexican-American,

Oriental and other non-white ancestry. The Mexican-American students are designated by Respondent as students of Spanish surname; and

(vii) The words "Respondent" or "Board" denote the Board of Education of the City of Los Angeles as the governing Board of the Los Angeles Unified School District of Los Angeles County, as an entity, and include its Executive Staff (Superintendent, Deputy Superintendent, Associate Superintendants, Assistant Superintendents, Division heads, Department heads, and their respective Assistants, and the Members of Board [Members]. The Members serve on a parttime basis. They have ultimate responsibility for: approximately 650,000 students attending Grades K through 12; 435 elementary schools; 73 junior high schools; and 54 senior high schools (including seven special or disciplinary high schools); an area of approximately 711 square miles; receipts, from all sources, and expenditure per school year of approximately $730,000,000; and approximately 48,000

employees. The Members, administratively, rely and must necessarily rely upon their Executive Staff [Staff], the Superintendent, Deputy Superintendent, Assistant Superintendents, Associate Superintendents, Division and Department heads, and the Assistants to each thereof, and other full-time employees on the Executive Staff. Board does not have a Lawyer or Efficiency Expert or Expeditor or Executive Officer or Economist or Business Administrator accountable only and directly to it and Members. Although Board is free to adopt whatever resolutions it may choose for the governing of the District, it generally adopts the resolutions proposed by the Staff, is entirely dependent upon Staff for the carrying out and fulfillment thereof and, by reason of the Staff's purported expertise, generally accepts Staff's reasons, excuses and rationalizations for the nonfulfillment thereof.

The findings hereinafter of acts, omissions and bad faith on the part of Board in its creating and maintaining and perpetuating of segregation of its

minority students in its schools, and in its failure and omission to integrate its schools, are not intended to be and are not findings of personal bad faith or personal acts or omissions on the part of the Members of the Board, but rather are intended to be and are findings of acts, omissions and bad faith on the part of Board as an entity operating by and through its Executive Staff, the operations of which may or may not have been known to or intended by each Member of Board.

IV.2 That Petitioners and all of the class on whose behalf the Petition was filed and proceedings had are citizens of State, free from any disability, qualified, entitled to and required by law to attend, do attend, and entitled by law to equal educational opportunities in, the public schools of Board, free from discrimination, directly or indirectly, by Board.

IV.3 That, prior to 1966, Board did not maintain any records of the racial or ethnic composition of its schools or officially assemble or collect ethnic data of

or pertaining to its schools. It only commenced to do so when required by State, in 1966.

IV.4 That, from 1962 through 1966, representatives of organizations such as the American Civil Liberties Union of Southern California made many presentations, both oral and written, to the Board, in which such representations requested and urged action on various substantive matters relating to integration, including, among other things, the taking of a school-by-school racial consus at intervals, progress toward integration of pupils and teachers in the schools of the District, restudying and reshaping construction bond proposals in the interest of integration and the like.

IV.5 That, in 1966, Respondent had approximately 627,000 pupils who attended 543 schools; these 543 schools consisted of 429 elementary schools, 71 junior high schools and 45 regular senior high schools (excluding 7 special or disciplinary high schools).

In 1967, Respondent had approximately 641,000 pupils who attended 549 schools; these 549 schools

consisted of 432 elementary schools, 71 junior high schools and 46 regular high schools.

In 1968, Respondent had approximately 648,000 pupils who attended 555 schools; these 555 schools consisted of 435 elementary schools, 73 junior high schools and 47 regular senior high schools.

In 1968, the racial and ethnic composition of students enrolled in Grades K through 12 in the schools of the District was as follows: 20% Mexican-Americans; 22.6% Negro; 3.6% Oriental; 0.2% American Indian and 53.6% White.

IV.6 That, in the Fall of 1966, of a total of 429 elementary schools; 165 schools were minority-segregated; 59 schools were Mexican-American segregated; 74 schools were Negro segregated; in 3 schools, the combined minority school population, consisting of Oriental, American Indian and other non-white students, was greater than fifty per cent; 263 schools were majority white; and 29 schools had other combined minorities in excess of fifty per cent but

where no one minority group exceeded fifty per cent of the student population. (P. 33.)

IV.7 In September, 1966, two new elementary schools were opened; (1) Ambler Avenue and (2) Brainard. Ambler was, upon its opening, more than fifty per cent Negro; Brainard was, upon its opening, more than fifty per cent White.

IV.8 In February, 1967, the only new elementary school opened was Beckford Avenue School. Its student body was, upon its opening, more than ninety per cent White.

IV.9 In September, 1967, the following new elementary schools were opened: Broadacres with, upon its opening, more than fifty per cent of the pupils being Negro; Pomelo Drive School with, upon its opening, a school population in excess of fifty per cent White; and President Avenue School with, upon its opening, more than fifty per cent of its pupils being White.

IV.10 During 1968, the following new elementary schools were opened: Hyde Park Boulevard School with, upon its opening, a student population of over fifty per cent Negro and ninety-five per cent combined minority; Park Avenue School with, upon its opening, about seventy-eight per cent of its students being White, and twenty-two per cent being combined minorities; and Van Gogh Street School with, upon its opening, the student population being about ninety-three per cent White, and seven per cent combined minorities. (P. 33, 34 and 34-B.)

IV.11 As of the Fall, 1966, there were 71 junior high schools in the District. Thereof: 13 were substantially over fifty per cent Negro; 6 were substantially over fifty per cent Mexican-American; 4 were substantially over fifty per cent combined minorities; and 48 were White.

In 1966, Holmes Junior High School was opened. In the Fall of 1966, its enrollment was approximately ninety-eight per cent White.

No junior high schools were opened during 1967.

In 1968, 2 junior high schools were opened. Bethune Junior High with, upon its opening, an enrollment of 1,585 Negro, 34 Mexican-American, and 10 White; Lawrence Junior High with, upon its opening, an enrollment of 1,512 White, and 64 minority pupils.

IV.12 In 1966, there were 45 regular senior high schools in the District. Thereof: 5 regular senior high schools had enrollments of more than fifty per cent Mexican-Americans; 30 regular senior high schools had enrollments in which White pupils exceeded fifty per cent of total enrollment; 6 regular senior high schools had enrollments of Negro pupils exceeding fifty per cent of the total enrollment; and 4 schools had combined minority enrollments exceeding fifty per cent of the student population.

IV.13 In 1967, Locke High School was opened. Its enrollment in the Fall, 1967, was 19 Mexican-American, 3 White, 1,821 Negro, and 2 Oriental.

In 1968, Crenshaw High School was opened. Its enrollment in 1968 was 35 White, 2,321 Negro, 98 Oriental and 41 Mexican-American.

IV.13.A That Staff, and therefore Board, knew or in the exercise of reasonable care should have known, at the time of the selection and purchase of the sites for, and at all events at the time of the letting of the Contracts for the construction of the school plants on said sites, its said schools the subjects of the foregoing IV.7 and IV.8 and IV.9 and IV.10 and the schools named in lines 24 and 25 and 27 to 30, Page 14, a portion of IV.11, and IV.13, that said schools and each of them would upon its opening be racially imbalanced and either Negro segregated or minority segregated or white segregated.

IV.14 From 1966 to 1968, the number of elementary schools containing fifty per cent or more Negro pupils increased from 74 to 80; the number of junior high schools containing fifty percent or more Negro pupils increased from 13 to 15; the number of

senior high schools containing fifty per cent or more Negro pupils increased from 6 to 9. From 1966 to 1968, the number of elementary schools containing fifty per cent or more Mexican-American pupils increased from 59 to 66; the number of senior high schools containing fifty per cent or more Mexican-American pupils increased from 5 to 7; and the number of junior high schools containing fifty per cent or more Mexican-American pupils increased from 6 to 8.

From 1966 to 1968, the number of elementary schools containing fifty per cent or more combined minority pupils increased from 29 to 30; the number of junior high schools containing fifty per cent or more combined minority pupils were 4 in 1966, 4 in 1967 and 3 in 1968; and the number of senior high schools containing fifty per cent or more combined minority pupils dropped from 4 in 1966 to 1 in 1968. In the Fall of 1968, 7 of the 9 predominantly Negro high schools had minority enrollments of ninety to one-hundred per cent, 13 of the 15 predominantly Negro junior high

schools had minority enrollments in excess of ninety per cent and 72 of the 80 predominantly Negro elementary schools had minority enrollments in excess of ninety per cent.

IV.15 From 1966 to 1968, of Boards school's; (i) Its elementary schools containing fifty per cent or more Negro pupils increased in number from 77 to 80. (ii) Its junior high schools containing fifty per cent or more Negro pupils increased in number from 13 to 15. (iii) Its senior high schools containing fifty per cent or more Negro pupils increased in number from 7 to 9. (iv) Its elementary schools containing fifty per cent or more Mexican-American pupils increased in number from 57 to 65. (v) Its senior high schools containing fifty per cent or more Mexican-American pupils increased in number from 5 to 6. (vi) Its junior high schools containing fifty per cent or more Mexican-American pupils remained in number at 8. (vii) Its elementary schools containing fifty per cent or more combined minority pupils increased in number from 30

to 32. (viii) Its junior high schools containing fifty per cent or more combined minority pupils were 3 in 1966, to 5 in 1967 and 3 in 1968. (ix) Its senior high schools containing fifty per cent or more combined minority pupils dropped in number from 3 in 1966 to 2 in 1968.

IV.16 In the 1968-69 school year, of Board's schools; (i) 8 of the 9 predominantly Negro segregated high schools had minority enrollments of ninety to one hundred per cent. (ii) 13 of the 15 predominantly Negro segregated junior high schools had minority enrollments in excess of ninety per cent, and (iii) 72 of the 80 predominantly Negro segregated elementary schools had minority enrollments in excess of ninety per cent.

IV.17 In 1966, of Board's schools: (i) 66.8% of the Mexican-American pupils, 94.5% of the Negro pupils and 52.8% of the Oriental pupils in the District were enrolled in schools having enrollments of fifty per cent or more Negro, fifty per cent or more Mexican-American, fifty per cent or more Oriental or fifty per

cent or more combined minority pupils: (ii) approximately 97% of the students enrolled at the predominantly Negro segregated schools were minority pupils; approximately 90% of the students enrolled at the predominantly Mexican-American segregated schools were minority pupils; and 93% of the students attending the predominantly Oriental segregated schools were minority pupils; and (iii) only 14.2% of the minority pupils in the District were enrolled in schools having fifty per cent or more White enrollment.

IV.18 In 1967, in Board's schools: (i) 65.2% of the Mexican-American pupils, 97.3% of the Negro pupils, and 66% of the Oriental pupils in the District attended schools having enrollments of fifty per cent or more Negro, fifty per cent or more Mexican-American, fifty per cent or more Oriental or fifty per cent or more combined minority pupils; (ii) approximately 89% of the students enrolled at the predominantly Mexican-American schools were minority pupils; approximately

96% of the students enrolled at the predominantly Negro schools were minority pupils; and 96% of the students enrolled in predominantly Oriental schools were minority students; and (iii) only 14.4% of the minority pupils in the District attended schools having fifty per cent or more White enrollment.

IV.19 In 1968, in Board's schools: (i) 68% of the Mexican-American pupils, 94.8% of the Negro pupils, and 56.8% of the Oriental pupils in the District attended schools having enrollments of fifty per cent or more Negro, fifty per cent or more Mexican-American, fifty per cent or more Oriental, or fifty per cent or more combined minority pupils; (ii) approximately ninety per cent of all pupils enrolled in the predominantly Mexican-American schools were minority pupils; 97% of the students enrolled in the predominantly Negro schools were minority pupils; and 95.2% of the students enrolled in the predominantly Oriental schools were minority pupils; and (iii) only 14.8% of the District's minority students attended

schools having fifty per cent or more White enrollment.

IV.20 In 1968, in Board's schools: (i) more than 183,000 White pupils in the District, almost 53% of the total White enrollment, attended white segregated schools having less than ten per cent minority enrollment; (ii) only 27% of the elementary schools, 32% of the junior high schools and 30% of the senior high schools had not less than ten per cent nor more than 49% minority enrollment, the remainder of the student population at those schools being White. The remaining schools, i.e., 73% of the elementary schools, 68% of the junior high schools and 70% of the senior high schools had fewer than ten per cent or fifty per cent or more minority enrollment.

IV.21 That the schools which were segregated, minority and white, in 1966, have remained and will continue to remain segregated. They were caused to be segregated and will continue to be caused to remain segregated by Board by, among other acts, mandating

neighborhood school systems, site selection, mandating school attendance areas and boundaries of such schools, transportation policies, and restrictive, impracticable and non-effective, for integretion, transfer policies.

IV.21A That, subsequent to 1963, none of the school sites selected by Staff and purchased by Board were situated or purchased for, and none of the schools constructed thereon by Board were constructed for, and none of the schools thereon opened by Board were opened for or designed to, in location or school attendance boundaries effectuate desegregation or integration in education.

IV.22 That the opportunity for an equal education in our public schools as a minimum equal to that afforded the socio-ecomonic advantaged is indispensible to a meaningful life; to the preservation of our democracy, our form of government and society. Its deprivation from any segment of our people is a denial of their rights as human beings, including their

inalienable rights of life, liberty and pursuit of happiness as citizens of our State and Country. Education is a basic right because it is indispensable to the development of human beings.

Education is the developing and training of the mental, physical, moral, cultural, philosophical and social powers and capabilities of the human being, of good citizenship, of the awakening of the child to, and his motivation to achieve, cultural values which help him adjust normally to his environment; it prepares the child for later training and to become able to support himself and his later family, to enjoy his life and his liberty and to pursue happiness. A child may not reasonably be expected to succeed in life if he is denied the opportunity fo equal education. Equal educational opportunity means that every child shall have an equal opportunity to learn to the best of his or her ability; such opportunity must be made available to all on equal terms. There is an inalienable right on the part of every child in our State to an equal education.

Education is one of the most important functions of state and local governments. Compulsory school attendance laws and the vast expenditures for education (for example, Board spends approximately $730,000,000 per fiscal year) demonstrate the importance of education in our democratic society.

IV.23 The Los Angeles Unified School District of the County of Los Angeles [District] is and at all times herein involved was a school district of the State of California [State]. Respondent [Board] is the governing board of said school district. District and therefore also Board is an agency, an instrumentality of State for the local operations of the State School System and for the observance and performance of the constitutional duties and obligations of State to educate, to provide equal educational opportunity to all of the children of State, including those within District. Herein, "District" and "Board" are used interchangeably. "District" includes "Board"; "Board includes "District".

Board may not therefore use its funds to create or maintain or perpetuate segregated eudcation.

IV.24 That Negro and Mexican-American children suffer serious harm when their education takes place in public schools which are racially minority or Negro or Mexican-American segregated, whatever the source or cause of such segregation may be. Negro and Mexican-American children who attend either wholly or predominantly minority or Negro or Mexican-American segregated schools do not achieve as well as other children—Negro, Mexican-American and White in integrated schools. Their, the minority, aspirations become more restricted than those of other children. They do not have as much confidence that they can influence their own futures. This factor—destiny control—bears a substantial relationship to academic achievement. When such pupils become adults, they are less likely to participate in the mainstream of American society, and more likely to fear, dislike and avoid white Americans. Public school minority

segregation affects their hearts and minds in ways unlikely ever to be undone. The harm results from the deprival of equal educational opportunity by segregation, which generates attitudes substantially detrimental to, if not destructive of, motivation to learn and achieve. Negro and Mexican-American children are caused by segregation to believe that their schools are stigmatized and regarded as inferior by the community as a whole. Their belief is shared by their parents and by their teachers. Their belief is founded in fact.

IV.25 It is not and would not be enough, even if the minorities in Board's segregated schools were, but they have not been and are not being, taught properly, for there are other vital considerations. All children must learn to respect and live with one another in multi-racial and multi-cultural communities, and the earlier they do so the better. It is during their formative school years that firm foundations are laid

for good citizenship and broad participation in the mainstream of affairs.

IV.26 That segregation of children in Board's public schools deprives Negro and Mexican-American children of educational opportunity, irrespective of whether such segregation is legally or otherwise classified as "de facto" or "de jure".

If Negro and Mexican-Americans are ever to enter the mainstream of American life, when they be school children they must have equal educational opportunity with white children.

An integrated education affords better educational opportunities to both minority and white children.

IV.27 Negro and Mexican-American students in Board's minority segregated schools do not receive equal educational opportunity measured either by educational inputs or outputs. There are significant differences and disadvantages when compared, measured and valued with Board's white schools.

Minority segregated schools do tend to result in lower aspirations, lower achievement, lower educational competition and attitudes, compared to pupils who attend white schools or integrated schools. Minority segregated schools tend to induce disbelief particularly on the part of Negro and Mexican-American pupils in their ability to learn and a lack of qualifications.

Board's segregated schools, the plant, teachers and physical facilities are in fact of less quality.

Board knew or had reasonable cause and grounds and knowledge to know of the facts of this Paragraph IV.27.

IV.28 That the plant, teachers, physical facilities and curriculum at Board's minority segregated schools are in fact of poorer quality than the plant, teachers, physical facilities and curriculum at its predominantly white schools.

Throughout the relevant period herein involved, Board's separate but allegedly equal schools were in

fact not equal in quality or efficiency or plant or facilities or teachers or curriculum or pupil congestion (i.e., the segregated minority schools have been more overcrowded), to Board's white schools.

IV.29 That segregated education tends to induce and create, both on the part of the minorities and whites, racial intolerance, misunderstanding, suspicion and fears. Integration of education substantially tears down the misunderstandings and fears that are based on ignorance of what the other person is really like. The opportunity thereby to learn that all persons are human beings, to alleviate the fears, ignorance, prejudices and bias otherwise existing, the teaching and the opportunity to learn thereof is as much a part of the educational opportunity of the majority as of the minority. Only thus can the democratic ideals of liberty, equality under law, worth, freedom and dignity of every person be taught or experienced.

IV.30 That minority segregated schools result in schools of predominantly low socio-economic status.

It adds a stigma both to the minority pupil and the minority segregated school he is compelled to attend. The stigma is inimical to achievement and tends to erode further educational motivation and aspirations of the segregated minority.

IV.31 That segregated education results in the assignment of academic grades within the segregated school unrelated to real performance. Segregated education causes and results in higher "drop-out" rates for Negro and Mexican-American students, who are compelled by Board to and therefore attend minority segregated schools, than for pupils who attend white or integrated schools.

IV.32 That Negro and Mexican-American pupils in Board's segregated schools have not been taught as efficiently and effectively with the same emphasis, compassion and understanding, as White pupils have been taught in the white schools. The more teachers expect from their students—however disadvantaged those students may be—the better the students

perform. Conversely, negative teacher attitudes act as self-fulfilling prophecies; teachers expect little from their students, and the students fulfill the expectation. Children who are treated as if they are uneducable invariably become uneducable.

IV.33 That there can be no equality of education "input" without integrated education. Only thereby will all students receive the same basic "inputs", to wit, plant, books, teachers, curriculum and facilities so that each shall receive his just share. That is the equality of education, the equality of "inputs" and the opportunity of general educational "output". The opportunity for improved educational "output", i.e., academic achievement, is substantially affected by equality of educational "inputs" brought about by integrated education.

IV.34 That though it is true that generally educational "output" is personal to each student dependent upon many factors as human beings, and the law does not and could not legislate equal ability to

achieve, Board may not justify its lack of equal opportunity in "input" by the alleged superiority of "outputs" of the White sutdents.

Board postulates that having a group, white, whose "output" makes a better showing for Board and its educational system, it therefore should concentrate thereon and only from any excess funds attempt to achieve through integrated education the same "outputs" by the minority. That may be Board's educational concept, but it is not the constitutional concept for equal opportunity to learn, the right initially to be fed equal "inputs" at the source of the stream of man's humanity.

IV.35 That academic achievement and learning related attitudes of Negro and Mexican-American students substantially improve when such students attend schools whose enrollment consists of more than fifty per cent White pupils. In those predominantly white schools in which minority pupils constitute only a token presence (i.e., less than ten per cent of the

total pupil enrollment), feelings of isolation and alienation on the part of such minority pupils are reinforced and strengthened. A school which has only a token presence of minority pupils is regarded by the community as a white school, and a school which has fifty per cent or more minority pupils is regarded by the community as a minority school. Only a school whose enrollment reflects the ethnic and racial composition of the pupils in the District is regarded by the community as a "common" or community school.

IV.36 Board has and is, since at least May of 1963, knowingly, affirmatively and in bad faith, without regard for its legal and fiduciary duties to its pupils, by and through its actual affirmative policies, customs, usages and practicies, doings and omissions, segregated, de jure, its students, in that it did at all times herein involved and still is doing and will continue to do so, unless and until commanded otherwise by the Court, among other things:

(i) adopted, adopts, and slavishly practiced and practices and adhered to and still adheres to a policy of selecting and purchasing sites and buildings neighborhood schools without regard to desegregation or integration. Board did and is doing so within racially imbalanced, segregated ghetto areas; knowing and intending that the students of the area were and would be by it required to attend thereat. It has and is establishing mandatory attendance areas and boundaries around its neighborhood schools so as to create or perpetuate segregated schools; and

(ii) Set and is still setting its school attendance areas and boundaries without regard to its duty not to create or perpetuate racially imbalanced and segregated schools. The attendance boundaries were and are knowingly set, knowing, or having reasonable cause to know, that the school affected thereby was or would be or become or be perpetuated as a minority segregated school or a white segregated school or a racially imbalanced school. Board knew

and knows that its rights and powers to establish school attendance areas was and is subject to constitutional guarantees of equal protection of the law and due process of law; and

(iii) Has not to the time hereof adopted or instructed or directed its Staff, including its Department charged with establishing and modifying school attendance boundaries, of any definition of equal educational opportunity or educational integration or segregation or desegregation or racial balance or racial imbalance; and

(iv) Failed to establish Feeder School Policies that would create or facilitate integration or desegregation or racial balance. It knew, or in the exercise of reasonable care should have known, that the policies established by it created or perpetuated racial imbalance and segregation; and

(v) Established and still directs and maintains transportation policies for its students which in fact created or perpetuated segregation. Students

living 2-1/4 miles from an elementary school, 2-3/4 miles from a junior high school and 3-1/4 miles from a senior high school are not provided with transportation. Board knew that many if not substantially all of the socio-economic disadvantaged students could not and cannot afford private transportation to schools outside of the area of nontransportation, and therefore that its transportation policy would cause substantially all, if not all, theeof to be compelled to and attend a segregated neighborhood school; and

(vi) Does not provide and has not provided free transportation or its equivalent to any pupil who was or is granted a permit to transfer pursuant to its transfer policies and practices. Board has not provided and does not provide free transportation or its equivalent for or with respect to so-called "open school" permits; and

(vii) Taken and still takes the legal position that it would and will only expend sums to create racial balance (though it had and has not officially

defined what constitutes racial balance) and would and will only affirmatively attempt to create, other than by token effort for public relations purposes, integration from surplus funds, surplus to all of its programs which it deemed and deems necessary or desirable, in its sole and arbitrary discretion, for the accomplishment of educational "output", which surplus funds it defines as that given to it by outside grants, either federal or state; and

(viii) Constantly taken and takes the position, without first having made any study of the cost thereof and without knowledge of the cost thereof, that the cost of providing integrated education would and will wrongfully require it to divert such large financial or other resources from its academic programs that the academic achievement of all of its pupils will be caused to and will suffer a significant decline.

Board has not at any time evolved, nor will it, unless and until commanded by the Court to do so,

evolve any plan or plans or the methods, means, manner, tools, designs and techniques for the integration or approximate integration of its schools, or for the desegregation of its minority segregated schools or for the creation of racial or ethnic or approximate racial or ethnic balance in its schools.

Board has not even commenced an in-depth study so as to enable it to evolve any such plan or plans or the designs, tools, manner, means, methods and techniques for the effectuating of any such plan or plans.

During the course of the trial of this cause, without any prior study of or evolving of any such plan or plans or of the methods, designs, tools, manner, means and techniques for the effectuating thereof, and solely for the purpose and with the objective of attempting to support its aforefound contention and position re the costs of providing equal education opportunity through integrated education, Staff, in

December, 1968, directed its Director of Transportation, who was not and is not an educator, to prepare for presentation to the Court a "Report on a Preliminary Survey to Determine the Feasibility and Estimated Costs of Totally Integrating the Regular Schools of the Los Angeles Unified School District by Means of Bus Transportation" (Exh. R. 376) (Report). Board and its Staff had known and knew prior thereto, at least since 1965, that bussing was but one of many "designs" [Exh. R. 373—3-A, Par. 19], methods, manner, tools, means and techniques for the carrying out of a plan or plans of integration, desegregation, and achievement of racial and ethnic balance in its schools; and that there existed and exists a substantial number of designs, plans, tools, methods, means and techniques therefor. (Exhs. R: 373-2; 373-3; 373—3-A, "Methods of Desegregation"; 373—3-B; 373-5; 373-6; 373-8, "Eastern Cities Survey - Principals Derived"; 373—8-A; 373-9; 373-11, "Potential Plans for Los Angeles Schools"; 373-12).) Nevertheless, Staff

directed the preparation of the Report as if bussing were not merely one of the designs or tools to be utilized in carrying out a prior evolved and adopted plan but "the" means, manner, method and technique of integration and desegregation and of creating racial and ethnic balance in Board's schools.

The Report was not the result either of any study of integration or desegregation or correction of imbalances of Board's schools; it was not the result of computation of costs of any evolved and/or approved, by Board, plan of integration or desegragation or correction of imbalances of Baord's schools which it contemplated or even was thinking about adopting. The Report was not the result of any "survey" conducted by Staff's Director of Transportation or Staff or Board. The Report was and is only a theoretical computation designed and intended by Staff to produce the highest, largest possible costs and expenses of the longest possible distances of transportation, including every possible facet thereof,

as the purported and only plan, method, manner and techniques of integration, desegregation and balancing, racial and ethnic, of Board's schools, and as a purported justification of the non-performance by Board of its duties specially imposed by law, to wit, to not deprive any of its pupils of equal educational opportunity.

The Court finds: That said Report was not made in good faith. That bussing is not "the" or "a" "means" of integration in Board's schools; it is only a design or tool for the effectuating of a plan or plans of integration. That Board knew or in the exercise of reasonable care should have known: that said Report was not made in good faith; that it was not and is not a plan or method or means of integration or desegregation or balancing of the racially and ethnically imbalanced schools of Board; that said Report was not and could not be and did not constitute legal or any justification of the non-performance by Board of any

duties specially imposed by law upon it, and particularly did not and could not justify or constitute any legal cause for or justify its depriving any of its pupils of equal eudcational opportunity; and

(ix) Contended, contends, asserts, and acts thereunder, that separate but allegedly equal schools are equal educational opportunity; and that, unless and until it is compelled by the Court to do otherwise, it will continue to perpetuate its segregated schools, will not desegregate them, will continue its said neighborhood school policy, by selecting sites and building schools thereon whether segregated or not

The Court finds: That, throughout the period of time involved, Board's separate but allegedly equal schools were not, in fact, equal, either as to plant or facilities or teachers or curriculum. That Board has not made available to all its pupils equal educational opportunity; and

(x) Asserted, asserts and contends, as its educational policy and as its legal position, that

integrated schools are not reasonably necessary to equal educational opportunity; that there is no legal mandate, constitutional federal and/or state, or statute of state, which imposes any duty upon it to desegregate its segregated schools or to remedy the racial imbalance in its schools or to integrate its schools, and that it will not so do unless and until it, in its absolute, arbitrary and uncontrolled discretion, believes it to be "feasible" to do so; and

(xi) Expended the public monies received by it (amounting to billions of dollars) in creating, maintaining, protecting and perpetuating its segregated and racially imbalanced schools; and

(xii) Assigned, assigns, compelled and compels pupils to attend schools on the basis of geographic criteria, knowing that such assignments created or would perpetuate racial imbalances and segregation.

Board had, and knew that it had, the power and the duty specially imposed by law upon it, though denied

by it: To adopt school assignment policies that would incorporate other than geographical criteria, i.e., policies that would rectify the existing racial imbalances and that would create or tend to create racial balance and integration; to select school sites for that aim, purpose and end; to readjust attendance zones and areas and to select school sites to meet and overcome the effect of population movement. It knew, or should have reasonably known, of the population movements within its District. Board did not execute or perform these or any of these powers or perform those or any of those duties specially imposed by law upon it.

IV.37 Board's schools which were segregated, minority and white, in 1966, have been and will continue to remain segregated; such segregation has been caused and will continue to be caused by Board's policies, practices, customs, usages, doings and omissions as found in these Findings of Fact, and particularly in IV.36.

IV.38 None of Board's schools opened subsequent to 1963 was designed, in its location or in the drawing of its attendance boundaries, to effect desegregation or integration in education.

IV.39 That Board asserts as its obligation and duty:

> "The respondent board of education is concerned primarily with school effects—with student's achievement. It views school inputs not as ends in themselves, but only as factors which affect students' achievement. For purposes of illustration, suppose it is true that there exists in a school district one group of schools whose student bodies are composed predominantly of white students and another group of schools whose student bodies are predominantly Negro (or other minority) students. Suppose also that the average achievement of white pupils is substantially greater than that of Negro students. Using achievement as the criterion of equal educational opportunity, it is obvious that Negro students do not have equal educational opportunity because they are not achieving as well on the average as white students. What are the school district's obligations under such state of facts? As viewed by the respondent board its obligation is to raise the average achievement of the Negro students as close as it possibly can within the limits of its available resources to that of the white students. Again, viewing equal educational opportunity in a substantive sense—in terms of educational results—

the board should allocate its resources to student education in such manner as to minimize the disparities between the average achievements of Negro and white students. On the other hand respondent board does not believe it to be its obligation to effect equality of educational achievement by so withdrawing academic offerings from white students that the average academic achievement of white students diminishes to the level of achievement of the Negro students. To use a rarer extreme example for illustrative purposes, the respondent board would not consider it proper to reduce the basic high school offering to a three-period day, and then use the monies thus saved for compensatory education of Negro students.

"In the view of the board of education it should provide to all students a minimum educational offering in such amount and quality that the average achievement of the racially higher achieving group will not substantially decline. In addition the school district should provide to racial minorities, to the extent that it has the financial wherewithal, educational offerings in addition to the basic minimum offering to attempt to close the gap between the average achievement of white students and that of the racial minorities." (R. Pt. A. 8-22-69, line 11, p. 13, to line 16, p. 14.)

The Court finds true: That it is the duty, specially imposed by law, of Board to provide to all of its pupils the same equal educational opportunity in amount and

quality by and through integrated education, without regard to race or color or creed or nation of origin or economic circumstance or social status. That, in addition, to the extent that Board has the financial wherewithal, to offer to all of its pupils, minority and majority alike and equally, to have the educational opportunity thereof.

IV.40 The Court finds the following assertions of Board to be true, to wit: That Board has only provided and now only provides " * * * to all students a minimum educational offering in such amount and quality that the average achievement of the racially higher achieving group will not substantially decline". That "prejudice, bias and misunderstanding in society may tend to be reduced through closer contact of individuals of different races and cultures".

IV.41 That Board has not in good faith created, studied, analyzed, tested or understood the effects upon the education of minority pupils or white pupils of integrated schools or racially balanced schools

operated for a school generation (i.e., kindergarten through 12th grade) or other substantial period of time. Board's position and conclusions are based solely on tests administered to minority pupils attending respondent's low socio-economic minority segregated schools, i.e., schools in which educational opportunity is not and has not been equal to the educational opportunity offered in the white segregated schools.

IV.42 That the inherent right to an education, equal educational opportunity by and through equal integrated schools so that the opportunity to learn received by one is received by all, cannot be denied or abridged upon the fears or assumptions or grounds, if they exist, and which the Court finds not true: That whites are superior in learning ability and therefore have rights to a white segregated or superior or better education than minorities; or that the white will be held back if deprived of educational opportunities; or that the average academic achievement of white

pupils will diminish to the level of achievement of the Negro pupils by integrated education.

IV.43 Citizenship, its rights, privileges and duties, knows no color. Schools, equal educational opportunity, should know no color between its pupils. There is no right to, the duty specially imposed by law upon Board prohibits, minimization of cost of education of the minorities, whether socio-economically disadvantaged or not, so as to enable the alleged "racially higher achieving group" to achieve higher grades, receive better, higher-quality education, greater achievements, and be prepared for a better life than the minorities and at their expense. Only when all, equally, have been provided with equal educational opportunity and those of the minorities requiring it, created by the heretofore segregated education, have received educational offerings, in addition to the minimal, given to attempt to close the gap between the average achievement of the white pupil and that of

the racial minorities, will Board have performed its duty imposed by law.

IV.44 Board's policy and action thereunder to perpetuate in favor of the white pupils the disparity which it has found to exist between the whites and the minorities was and is caused to exist or continues to exist by Board's segregated schools. That is educational discrimination. It is a denial of equal protection of the laws, of due process of law, of the inalienable and constitutional rights, the right to be a human being.

IV.45 Board's acts in having heretofore, now and which it will continue, only to provide to " * * * all students a minimum educational offering in such amount and quality that the average achievement of the racially higher achieving group will not substantially decline" was, constituted, constitutes and is and will continue to constitute State action. It constituted, constitutes and will continue to constitute discrimination against the minorities in favor of the

whites. It created, creates and perpetuates the said disparity caused to exist and existing by Board by and through its segregated schools and thereby segregated education.

IV.46 Partial integration (e.g., on the periphery of the ghettos) would not be, is not and will not be effective; the only effective approach to educational integration of District is on a district-wide basis.

IV.47 An effective plan of integration, for the creation of racial balance in, and the elimination of racial imbalance from, Board's schools must be mandatory. An effective integration plan and the methods, means, mechanics, designs, tools and techniques of achieving racial balance, must be designed to and work in the direction of its objectives.

IV.48 Board's alleged "open enrollment" policies (referred to in Respondent's "Second and Further Separate Affirmative Defense", Par. I of Board's Ans.) were not and are not policies or plans or methods or

techniques of intregation or desegregation or of correction of racial imblance. Open enrollment is at best, if otherwise valid, a design and tool therefor. None of Board's said policies was or is mandatory; they did not give rise to a "right" of transfer, but only to a "privilege" of transfer on the basis of "first come, first served"; they were not and are not equal as far as Board's minority pupils were and are concerned; they were not and are not designed to achieve, nor did they nor will they achieve, any objective related to intregation or desegregation or remedying racial imbalance or creating racial balance. No provision was made or is made for the free transportation of pupils from the "sending school" to the "receiving school". Respondent knew that its socio-economic disadvantaged pupils, the bulk of whom were and are minority pupils, could not avail themselves of any alleged privileges to transfer without transportation being made available to them without cost, by Board. The effect of Board's alleged "open enrollment"policies

was to permit White pupils attending schools with predominantly minority group enrollment to transfer to schools having predominantly white enrollment.

IV.49 That there is, in fact, no difference in terms of education, equal educational opportunity and educational discrimination, between de jure and de facto segregated schools. The harm inflicted on Negro and Mexican-American and other minority pupils, the denial of equal educational opportunity to such minority pupils, is the same in the so-called "de facto" segregated school as in the so-called "de jure" segregated school. Segregated education is inherently unequal and creates and inflicts the same harm, constitutes the same discrimination and deprives the student of the same equal educational opportunity, irrespective of the name by which it be called or categorized.

IV.50 That, throughout the entire of the time herein involved, from an educational standpoint, to achieve greater understanding, reduction of prejudice,

minimization of racial conflicts, a better and greater educational opportunity, it was and is sounder to integrate minority and majority children when they enter kindergarten or elementary school and give them an integrated education experience all the way through public schools rather than keeping minority children and majority children in segregated schools until they reach junior high or senior high school.

IV.51 On or about May 20, 1963, the Ad Hoc Committee of Board recommended to the full Board:

> "The committee recommends that the Board of Education adopt the following statement of policy:
>
> "The Board of Education believes that equality or opportunity in the total community for all ethnic groups is a desirable goal for our society. Therefore, the Board establishes a formal policy of providing equal educational opportunity for all pupils regardless of racial or socio-economic background, recognizing that equal opportunity is best achieved in schools which provide pupils an opportunity for interaction with persons of differing cultures and ethnic backgrounds.
>
> "In furtherance of this policy the Board recognizes an obligation to act positively within the framework of its educational

responsibilities, at all levels and in all areas of the school system,

> "a. By encouraging actions and programs designed to maintain in the Los Angeles City Schools a position of leadership in the avoidance of segregation or discrimination in such matters as school boundaries; student discipline; educational and vocational counseling; teacher placement, transfer, and promotion; and any other matter affecting equal educational opportunity.
>
> "b. By insuring that all such policies are continuously and clearly communicated to all school personnel and to the public."

On September 12, 1963, in the "Preface" to the Ad Hoc Committee Report to Board, the Ad Hoc Committee stated, in part:

> "The Board of Education reaffirmed its responsibility to provide equal educational opportunity to children of all races, religions and cultures on June 7, 1962 when it adopted the motion establishing the Ad Hoc Committee. The Board felt and feels that it has followed a policy directed toward the goal of equality in that the pupil-teacher ratio, basic curriculum, books per student, and transportation rules are equally applied throughout the District. It is conceded, however, that this formula falls far short of providing true equality for thousands of

> children who enter our schools from educationally and economically disadvantaged environments. They are in no way able to compete equally with children living under more favorable circumstances."

On or about December 21, 1967, Board by formal resolution, clarified its position with respect to said recommendation of the Ad Hoc Committee (quoted above in this IV.51), as follows:

> "Further, in order to clarify its position, [resolved] that the Los Angeles Board of Education accepts Directive No. 1 of the 1963 Ad Hoc Report as policy. In addition, the Board of Education sets as its goal an integrated system at all levels and divisions and instructs the staff to develop every feasible technique and program to accomplish this goal."

Notwithstanding the foregoing, Board did not take, and has not taken, any meaningful steps, and did not adopt and has not adopted and will not, unless commanded by the Court, take or do or adopt any plan or plans or any meaningful means or methods or mechanics or techniques or designs or tools to accomplish the stated or any integration goal, and

even to this date has not adopted any definition of "integration" or "desegregation" or "racial balance" or "racial imbalance".

IV.52 On February 13, 1969, the State Board of Education adopted its amended rules on ethnic balance in the schools, Section 2010 and 2011 (Title V, Calif. Admin. Code), to become effective March, 1969. Said amended Sections 2010 and 2011 read as follows:

> "2010. STATE BOARD POLICY. It is the declared policy of the State Board of Education that persons or agencies responsible for the establishment of school attendance centers or the assignment of pupils thereto shall exert all effort to prevent and eliminate racial and ethnic imbalance in pupil enrollment. The prevention and elimination of such imbalance shall be given high priority in all decisions relating to school sites, school attendance areas and school attendance practices.
>
> "2011. SCHOOL DISTRICT AND STATE RESPONSIBILITIES IN PREVENTING AND ELIMINATING RACIAL AND ETHNIC IMBALANCE.
>
> "(a) SCHOOL SITES, ATTENDANCE AREAS AND ATTENDANCE PRACTICES. In carrying out the policy of Section 2010, consideration shall be given to factors such as the following:

"(1) A comparison of the numbers and percentages of pupils of each racial and ethnic group in the district with their numbers and percentages in each school and each grade.

"(2) A comparison of the numbers and percentages of pupils of each racial and ethnic group in certain schools with those in other schools in adjacent areas of the district.

"(3) Trends and rates of population change among racial and ethnic groups within the total district, in each school, and in each grade.

"(4) The effects on the racial and ethnic composition of each school and each grade of alternate plans for selecting or enlarging school sites, or for establishing or altering school attendance areas and school attendance practices.

"(b) RACIAL AND ETHNIC SURVEY. The governing board of each school district shall periodically, at such time and in such form as the Department of Education shall prescribe, submit statistics sufficient to enable a determination to be made of the numbers and percentages of the various racial and ethnic groups in every public school under the jurisdiction of each such governing board.

"(c) DETERMINATION OF RACIAL AND ETHNIC IMBALANCE AND CORRECTIVE PLANS. For purposes of these regulations, a racial or ethnic imbalance is indicated in a school if the percentage of pupils of one or more racial or ethnic groups differs by more than 15 percentage points from that in all the schools of the district.

"A district shall study and consider possible alternative plans when the percentage of pupils of one or more racial or ethnic groups in a school differs significantly from the district-wide percentage. A district undertaking such a study may consider among feasibility factors the following:

"(1) Traditional factors used in site selection, boundary determination, and school organization by grade level.

"(2) The factors mentioned in subparagraph (a) hereof.

"(3) The high priority established in 2010.

"(4) The effect of such alternatives on the educational program."

Notwithstanding, on March 3, 1969, Board by formal resolution, adopted its Superintendent's

recommendations and interpretations of said amended Sections 2010 and 2011, to wit:

> " * * * The Superintendent therefore construes Sec. 2010 to mean that each school board shall seriously and earnestly engage in an 'effort to prevent and eliminate racial and ethnic imbalance' where feasible, and that prevention and elimination of such imbalance shall be one of the principal or primary goals of the district. The State Board did not say that the prevention and elimination of racial and ethnic imbalance shall be the first, and if necessary, the exclusive priority of each school district * * *
>
> "Inference may be made from Sec. 2011(a)(1) that the State Board regards a school to be in ideal or perfect racial and ethnic balance where the respective proportions of ethnic and racial groups in each grade of the school are precisely the same proportions that such racial and ethnic groups represent in the total school district pupil population. Sec. 2011(a), subsections 1 to 4, seem to require each district continually to strive, insofar a [sic] seems feasible, to achieve this ideal racial and ethnic balance. However, the Superintendent does not construe Sec. 2011(a) to require a school district to neglect its academic program in seeking to achieve such concept of ideal racial and ethnic balance * * *
>
> "The Superintendant further construes Secs. 2010 and 2011 to require the School District to racially and ethnically balance school populations, and ideally, grade populations within schools, where feasible.

> The extent to which the achievement of ethnic and racial balance is feasible is a decision legally committed to the Board of Education. The Board is to make its decision by weighing the feasibility factors specified in Sec. 2011(c), including the items set forth in subsections 1 - 4 in the manner there stated * * * "
>
> * * *
>
> "In summary, the Superintendent interprets these Rules to mean that the Board of Education is not required by Secs. 2010 and 2011 (as amended) to allocate its financial and other resources to the achievement of racial and ethnic balance if student academic achievement would likely suffer any significant decline because of any required reduction in the academic programs * * * "

Notwithstanding the foregoing, Board did not then or thereafter undertake or make any study, and has not formulated any plans, "for the relief and amelioration of racial and ethnic imbalance existing within some of the schools of the District". Approximately one year has elapsed since the adoption of said Resolution.

IV.53 After the adoption by Board of its Resolution of December 21, 1967, referred to in IV.51 above, the Court prepared (November 29, 1968), in

writing, "COURT'S UNDERSTANDING OF REPRESENTATIONS OF COUNSEL FOR RESPONDENT OF RESPONDENT'S INTENTION AND MEANING OF COURT'S EXHIBIT 5-C". Therein the Court stated its understanding of said Resolution as:

> "(1). That the Board 'recognizing that equal opportunity is best achieved in schools which provide pupils an opportunity for interaction with persons of different cultures and ethnic backgrounds' 'establishes a formal policy of providing equal educational opportunity for all pupils regardless of racial or socio-economic background' by and through 'an integrated system at all levels and divisions'.
>
> "(2). Therefore, the Board: 'recognizes an obligation to act positively within the framework of its educational responsibilities, at all levels and in all areas of the school system; adopts Directive 1 of the Ad Hoc Committee Report of 1963'; and 'instructs the staff to develop every feasible technique and program to accomplish this goal' of an 'integrated system at all levels and division'."

The Court requested confirmation by Board of the Court's understanding of said Resolution. Board did not make any reply thereto until May 1, 1969, on which

date it filed its memorandum entitled "RESPONDENT'S POSITION RE EQUAL EDUCATIONAL OPPORTUNITY AND DESEGREGATION". In said document, Board did not directly or unequivocally agree with the Court's construction of its said Resolution of December 21, 1967. It purported not to have an understanding of the phrase "equal educational opportunity". It conceived "of at least three different sets of conditions constituting school district activities that may be indicated by that phrase". Included therewith was: "(1) One such set might be that every pupil of the district is presented with precisely the same educational factors, both tangible and intangible, as every other pupil of the district * * *"; and, as to that, Board took the position "that there would be little point in seeking 'equal educational opportunity' according to the first set of conditions postulated". Incorporated herein, hereat, verbatim, is Board's said "RESPONDENT'S POSITION RE EQUAL EDUCATIONAL OPPORTUNITY AND DESEGREGATION".

IV.54 That, notwithstanding Board's said Resolutions, motions and directives, it is still committed to the policies, which are contrary to the duties specially imposed on it by law: That separate but equal is equal. That no affirmative duty exists on its part to seek and create integration. That neither under the Constitution of the United States or of the State of California nor the statutes of the United States or of California do minority students have any right to education in racially integrated schools. That, unless and until it is "clearly demonstrated that integration has a substantial effect on student achievement in a positive sense", and only when Board in its arbitrary and uncontrolled judgment decides that it has been so demonstrated, would it "put [its] money into integration".

IV.55 That Board will not, unless it is ordered to do so by the Court and supervised by the Court in the doing thereof, formulate and adopt, within any reasonable period of time, a bona fide Master Plan,

including the methods, manners, means, mechanics, designs, tools and techniques, for the consummation thereof, for the integration of its schools.

IV.56 Board's unwillingness and refusal to racially integrate its schools, unless compelled to do so by order of the Court, is based, in part, on fears and genetic assumptions: That the costs of integration, which costs it does not know, will financially compel a reduction in the educational inputs to, and therefore the outputs of, the majority. That integration will reduce the motivation and therefore the achievement of the majority group pupils and reduce the average learning capacility of such pupils to the assumed lesser learning capability of the pupils of the minority groups.

The Court finds that the Board's fears and assumptions are not founded in fact and are not true.

IV.57 That Board has also created and maintained and perpetuated, and does and will continue, unless commanded otherwise by the Court, to create and

maintain and perpetuate, segregated schools and a segregated school system in the hope of the happening of voluntary education integration.

The Court finds that said hopes were not and are not founded in fact. There was not and is not any racial or social basis therefor.

IV.58 That Board knew, actually and constructively, that no state statutes or rules or regulations of the State Board of Education provided for or allowed segregated schools or required or allowed such adherence to the neighborhood school concept as would create, maintain or perpetuate segregated schools.

IV.59 Board made no racial census or survey of the pupil population in its schools until 1966 when directed to do so by the State Board of Education. Prior thereto, it collected ethnic data only on a spot check geographic basis conducted on automobile "drive throughs". Board knew or should have known that it could not comply with its constitutional and statutory duties without a school-by-school racial and ethnic

census or survey. Board had been requested, commencing in or about 1962, to collect and collate such data. Board knew or should have known, upon the original adoption by the State Board of Education of its Rule 2010 (i.e., Section 2010 of Title V of Administrative Code) in 1962, that it could not comply therewith without the collection and collation of such racial and ethnic data.

IV.60 That eighteen school sites were acquired and new schools were built and completed thereon between May 1963 and January 1968. Prior to the acquisition of the sites and the building of the schools, no consideration was given by Board or its Staff to alternate sites which would have had any substantial or material effect upon racial balance. The new school sites selected and schools built and opened since 1963 were not selected to, or built or opened for, nor did they, achieve or further integration in the schools of the District. To this date, Board has not promulgated any definitions of "integration", "segregation",

"desegregation", "racial balance", "racial imbalance", or instructed its Staff with respect thereto in connection with the selection of new school sites. By reason thereof, Board's Staff were unable to, and did not, select sites for new schools or establish or readjust attendance boundaries to achieve or further integration.

IV.61 That Board did not give any instructions to its Staff to consider, in connection with changing attendance areas and boundaries, the pairing of schools or consolidation of attendance areas or any other designs or tools or methods or techniques of integration, in order to facilitate or create integration.

That Board and its Staff, in selecting, approving and resolving upon the creation or changing of attendance districts and boundaries, did not have any written racial or ethnic data before them with respect to approximately seventy-five per cent of the attendance area boundary decisions made since May, 1963, and with respect to the remaining decisions did

not have sufficient information upon which a well-considered integration decision could have been predicated.

IV.62 That Board has, to the present time, knowingly and intentionally, omitted, failed and refused to define or instruct its Staff as to what it intended by the term "integration" or "racial balance" or "racial imbalance" or "equal educational opportunity".

It was not until on or about August 2, 1966, that Board's Staff had under consideration an experimental approach to integrated education, as distinguished from a comprehensive plan for mandatory integration.

IV.63 That, since 1963, Board has collected and spent billions of dollars in public money without affirmatively, actively or effectively seeking or achieving or attempting to achieve racial integration in any of its schools; whatever integration exists was and is fortuitous, i.e., resulted from neighborhood population changes. The public monies have, in effect,

been expended to maintain and thereby to perpetuate the segregation existing in Board's schools, without any meaningful progress toward integration. Board rationalized its failure and omission so to do by its assertions as hereinabove found. Board's directives and statements, sounding as if Board were, in fact, seeking and ordering integration, were solely issued for public relations to attempt to keep the minorities pacified by attempting to create an image of equal educational opportunity.

IV.64 That Board has not, since May, 1963, evolved or adopted or put into motion or maintained any effective integration program.

IV.65 On March 12, 1970, the State Board of Education repealed Sections 2010 and 2011 of Title V of the California Administrative Code, in their entirety, without first having complied with the notice and publication procedures specified in Section 11423 of the Government Code of the State of California.

In connection with the adoption of the resolution by which the State Board of Education repealed said regulations, the State Board of Education made the following "Finding of Emergency" under Government Code Section 11421(b):

> "The State Board of Education finds that an emergency exists and that the foregoing regulations are necessary for the immediate preservation of the public peace, health and safety or general welfare. A statement of the facts, constituting such emergency is:
>
> "These regulations have been cited in past and pending litigation in support of mass transportation of pupils from one attendance center area to another. It is necessary that the Board's disfavor of this practice be known immediately.
>
> "These regulations are therefore adopted as emergency regulations to take effect immediately upon filing in accordance with Section 11422(c) of the Government Code."

IV.66 The allegations of Paragraphs 1; 2; 3; 4; 6; 7; 8; 9; 10; 11; 12; Lines 14-18, p. 5, of Pet., of 13; 15; 16; 17; 18 and 19 of Pet.

IV.67 The allegations of Paragraph 20 of Pet. (added by Amm. to Pet., Par. 1 thereof, filed June 11, 1969).

IV.68 That to and only to the extent that funds are granted to Board by the Federal Government or the State of California, but not otherwise, Board has established and is operation (sic) compensatory educational programs for "its educationally or culturally deprived students, most of whom are from a racial minority group". (Lines 13-14, p. 2, of Ans.)

IV.69 That compensatory educational programs are methods which, at substantial cost, attempt to alleviate educational and cultural deficits suffered principally and substantially by the Negro and Mexican-American pupils who have, are and will continue to be required by Board to attend segregated and racially imbalanced schools, by reason of the failure and omission by Board to provide to them equal educational opportunity by and through integrated schools.

IV.70 That Board has "historically * * * selected its school sites and has built its plants as close as financially possible to the center of the area in which the pupils live" (Lines 30-32, p. 2, of Ans.), i.e., neighborhood schools, without reference to integration and without regard to the effect of segregated education. That school sites have been and are being selected and said school plants constructed thereon and thereafter maintained within known segregated areas or areas which Board knew or should have known in the exercise of reasonable care and skill would be segregated within a short period of time. Attendance area zones have been and are selected without regard to the integration of Board's schools. "[A]ttendance area zones surrounding such school plants are based upon capacity of the school, safety and hazard factors, distance to be traveled between home and school, natural, geographic or other physical barriers" (Lines 9-12, p. 3, of Ans.), without regard to integration or the educational effects thereof, segregation or the

educational effects thereof, or the rights to equal educational opportunity. The sites were and are selected, the schools were and are being built, although Board knew or should have known, in advance, that the student bodies in said schools would be and are segregated, i.e., all or substantially all minority or all or substantially all white.

IV.71 The filing of the Petition for Writ of Mandamus in behalf of all of the pupils of Board similarly situated to Petitioners, and the prosecution of this proceeding, an involved and difficult one, required capable, experienced and diligent Counsel. It was made necessary by Board's omissions, failure and refusal to perform duties specially imposed by law, to wit, to provide to all of the pupils attending its schools, irrespective of race, color or creed, economic or social circumstances, equal protection of the laws, due process of law, equal educational opportunity, by taking such action and doing such things and otherwise

as may be reasonably necessary to reconstitute its schools as a racially unitary school system.

IV.72 Petitioners are nominal petitioners who sue in behalf of all pupils of Board similarly situated. Petitioners cannot and should not be expected to finance, from their own resources, this cause. The research of the facts and law, the assembling of evidence, the preparation of briefs, the selecting, interviewing and procuring of Experts to testify, the taking of depositions and the trial iteself required the expenditure of vast amounts of time by Counsel for Petitioners.

To pay the reasonable value of Counsel's services is only within the financial ability of the rich. Petitioners are not of that class.

It was therefore necessary for Petitioners to procure experienced and able Counsel, legally and philosophically in accord, economically able to take the risk, and willing to devote the time and effort reasonably required, to do all thereof, upon a

contingency as to their compensation, that is, if successful, for such sum, if any, as the Court might allow.

IV.73 This is an equitable proceeding, having for its objective the compelling of Board to perform the duties specially imposed upon it by law. Without the undertaking of this cause by Counsel, and if this Court be not allowed by law to award reasonable compensation thereto, Petitioners and all others of the class for whose benefit this proceeding was filed and prosecuted would have no plain, speedy or adequate redress against Board's conduct and to compel it to perform its duties specially imposed by law.

It is necessary in our system of government that the governed be allowed to seek out, find and have represent them capable, experienced Counsel, willing to undertake a just cause upon a contingency as to their compensation, i.e. such reasonable amount as the Court may allow to them for their services, if successful.

IV.74 That all of the pupils, Whites, Orientals, Negroes and Mexican-Americans, of Board will benefit by integrated living and experience in integrated schools, learning that race, color, creed, economic and social circumstances or station in life do not make anyone more or less than a human being. Integrated education will tend to teach all of the pupils to lose their fears of different races, their prejudices, their bias, their bigotry, to seek and do Justice, to walk humbly with their fellow beings, to love mercy, to temper righteousness with mercy, and to allow every person their right to worship as they will. The parents, in participating in integrated educational processes, will also so learn. Board will learn of the benefit to all of its pupils by and from integrated education and will, hopefully, lose its assumption of inferiority of one race when compared with another.

IV.75 That the right of Counsel to reasonable compensation should not be restricted or inhibited by a doctrine which limits the compensation of services of

Counsel to causes which provide monetary recovery. The protection and preservation of the inalienable constitutional rights of any class of citizens, the enforcement of duties of government, imposed upon it by law, to its citizens, is at least as valuable, if not more so, than the recovery by litigation of money. Rights, particularly the inalienable constitutional rights, are a species of property. In a country of laws, the reaffirming, enforcement and preserving thereof, including the most sacred and invaluable of the rights, the right to life, liberty and the pursuit of happiness, to be a human being, for every person to receive the same equal protection of our laws, is one of the highest callings of Counsel; and when done in behalf of those otherwise unable to do so, the disadvantaged, Justice requires, demands, that they receive reasonable compensation therefor.

IV.76 That, by causing Board to perform the duties specially imposed on it by law, this action provides substantial benefit to a large number of its

pupils, i.e., the minority group pupils, raises the standard of Board's fiduciary duty to all of its pupils and thereby serves important considerations of public policy.

If the Court does not have, or is denied, the power and right to allow reasonable compensation for the services of Counsel in causes like this, and particularly when they skillfully, efficiently and effectively re-establish the rights of the class in whose behalf the action was brought, the bringing of such actions would be discouraged instead of, as should be the case, encouraged.

IV.77 That Board allocated a substantial sum to defend this case. It had at its command able and experienced Counsel and made available to its Counsel the abilities, education and skill of its Staff, the very persons enjoined by law to render and perform the duties sought to be enforced by Petitioners. But for this proceeding, Board would not have performed the duties specially imposed upon it by law to grant to all

of its pupils an integrated, equal educational opportunity; to this day, Board denies that it has such duties.

IV.78 The Court retains jurisdiction to allow to Counsel for Petitioners reasonable compensation for their services on appeal and such other additional services which may be reasonably required to be rendered in any subsequent proceedings in this cause.

IV.79 That, by reason of all of the facts hereinabove and hereinafter found to be true and not true, Board, in its denial to Petitioners, and the class in whose behalf the Petition was filed, of equal educational opportunity by integrated education, has been and is guilty of bad faith.

IV.80 That Board had and has a duty, in all matters relating to the education of its students, to act in the highest of good faith. It thereby denied to its pupils that which was and is justly owing to them.

IV.81 That Board is a Trustee. That it could have, and in the highest ideals of a trustee and with the

complete impartiality owed to all of its beneficiaries, should have, filed its own action or cross-complaint for declaratory relief to have the Court adjudicate its rights, duties and obligations to and among all of its pupils; assuming an impartial position, it could have introduced all of the evidence available to it, and being willing, even desirous, of performing the duties imposed by law upon it, asked the Court for a declaration thereof. Instead, it defended against the Petition and denied its duties specially imposed upon it by law, sought by this cause to be performed. Its defense was strenuous, capable and hard.

That Board would not have performed the duties specially imposed upon it by law to grant to all of its pupils integrated, equal, educational opportunity but for this proceeding. To this very day, Board denies any such duties.

IV.82 That it is therefore reasonable, just, within the concepts of equity, the administration and preservation of Justice, and required by the conscience

of the Court, that Counsel be allowed reasonable compensation to be paid by Board.

Board has announced that it will take an appeal from the Judgment herein. Counsel for Petitioners shall be entitled to reasonable compensation for their services to be rendered on such appeal. It is therefore proper that the Court retain jurisdiction to, in the event of and upon entry of the final Judgment herein, allow to Counsel such additional compensation as may be just and reasonable under all of the circumstances for their services on such appeal.

IV.83 That the reasonable value of the services of Counsel for Petitioners, for the instituting and prosecuting of this cause to the date hereof and hereafter, the preparation of the formal Findings of Fact, Conclusions of Law, Judgment and Peremptory Writ of Mandamus, the settlement thereof, and the defense of Board's Motion for New Trial, if any be made, is the sum of $65,000.00, plus Petitioners' costs and disbursements herein.

IV.84 That Board will only meaningfully adopt, in good faith, integrated education, a wholly unitary system of schools, as its aim, purpose and goal, with all due diligence and speed, and will only evolve and adopt a Master Plan of and for integration, together with the manner, means, mechanics, designs, tools and techniques for the carrying out thereof; a plan, method, means, mechanics, designs, tools and techniques which will effectuate integration in Board's schools within a reasonable period of time; when commanded by this Court to do so.

That to attempt to assure the doing thereof in good faith and with all the diligence and speed, having in mind the long period of time already elapsed, upon completion and adoption by Board of said Master Plan and of the methods, means, mechanics, designs, tools and techniques for the consummation thereof, it should be required to submit all thereof to this Court for its approval as conforming to law and the Peremptory Writ of Mandamus to be issued.

IV.85 That the Court will require the assistance of an Expert or Experts to ensure the performance by the Board of its duties hereunder and under the Peremptory Writ of Mandate to be issued by the Court, and to assist the Court upon the review of any such Master Plan, and the manner, means, methods, mechanics, designs, tools and techniques for the fulfillment thereof, which shall be submitted to the Court by Board.

The Court's Expert or Experts shall be required to audit the proceedings of Board and to be of such assistance to it as may be within his or their power to enable Board to conform to the Judgment and Writ of the Court and the duties imposed by law on Board.

IV.86 That the appointment of such Expert or Experts will facilitate and ensure compliance by Board with the Judgment and Writ of this Court, in good faith and with all due diligence and speed; the appointment of such Expert or Experts to assist the Court is essential in view of the long period of time

already elapsed during which Board has knowingly and deliberately failed and omitted to perform the duties imposed upon it by law.

IV.87 It is just and necessary that reasonable compensation be paid to the Court's Expert or Experts, as may be fixed and allowed by the Court; and that such compensation shall be paid by Board.

The Court therefore retains jurisdiction to, upon motion of either of the parties or upon the Court's own motion, appoint such Expert or Experts and to allow reasonable compensation thereto for his or their said services. The provisions of Chapter 3, Article 1, Article 2, §§720-733, of the Evidence Code shall be applicable thereto.

IV.88 That Board and Staff knew, or should have in the exercise of reasonable care, skill and knowledge known, and know or should know all of the facts found by the Court to be true and not true.

V. The Court finds not true:

V.1 That the offering and extending of equal educational opportunity to all by integrated schools would reduce either the educational "inputs" or "outputs" or motivation or achievement of the White pupils or that it would require Board to withhold from them any academic offerings.

V.2 That the educational abilities of the Negroes and Mexican-Americans are inherently or genetically inferior to the Whites. Board's said position is based upon an erroneous assumption, to wit, that the educational opportunities made available by it in the minority segregated schools are in fact equal to those offered in the white school.

V.3 That "Respondent is as committed as Petitioners appear to be to the integration of the schools."

V.4 That Board is making, has made and will continue to make every or any feasible effort or has been or is seeking or will seek every or any feasible

means toward or to effect the integration of its schools or school systems.

The Court finds true that Board will only do so when commanded by the Court.

V.5 That Board's basic policy has been, when confronted with two or more educationally sound courses of action, to select that course of action which is most likely to lead to school integration.

V.6 That the Federal Constitution only requires integrated education, i.e., racial mixing in the schools, if and only if the segregation, i.e., racial separation of students in the schools, is of a de jure nature, and if and only if in the case of de facto segregation, the academic achievement of the minorities in the schools will be raised by racially mixing students and the achievement of the majority will not be substantially reduced ny such racial mixing.

The Court finds true: That the academic achievement of the minorities in the schools has been, is and will be materially and adversely affected and

reduced when compelled, either de jure or de facto, to attend minority segregated schools. That the academic achievement of the minorities in the schools will be materially and beneficialiy affected and raised by integrated education. That the academic achievement of the majority, i.e., the white pupils will not be substantially or materially or at all adversely affected or reduced by integrated education.

V.7 That, under the duties specially imposed upon it by law, Board is only obligated to provide to all students a minimum educational offering in such amount and quality that the average achievement of the allegedly racially higher achieving group, i.e., the segregated white pupils, will not substantially decline; and then and only then Board should provide to racial minorities, to the extent that it has the financial wherewithal, educational offerings in addition to the basic minimum offering to attempt to close the gap between the average achievement of white pupils and that of the racial minorities.

V.8 That Board has any right or choice to create or maintain or perpetuate substantial allegedly de facto segregation because, in its alleged opinion, "a higher level of student achievement" will result than under integrated education.

The Court finds true: That, until commanded otherwise by the Court, Board has, does and will continue to create, and maintain and perpetuate, and has, does and will continue to maintain and perpetuate, existing minority segregated schools and white segregated schools under the claim and alleged justification that, notwithstanding the affirmative acts and knowing and intentional omissions on the part of Board, as hereinbefore found, such schools are de facto segregated.

V.9 That the integration of Board's schools will significantly or substantially reduce the funds available for the education of its pupils.

V.10 That Board has not had available to it any hard data indicating that classroom education as it is

commonly understood will be enhanced through integration.

V.11 That the racial imbalance and segregation existent in Board's schools since 1963 and thereafter is fortuitous, i.e., is de facto and not de jure.

V.12 That the educational ability or educational output of white pupils will be adversely affected by integrated education.

The Court finds true: That integrated education, whether it be as defined and provided by the Rules of the State Board of Education or under the finding, and the Court finds true: (i) that integrated education requires not less than ten per cent nor more than approximately forty-nine per cent of minorities, the residue being White; or (ii) by racially balanced schools, that is, wherein the percentage of minorities and whites in each school approximates the racial composition in Board's entire district; will substantially and materially benefit the education, both input and output, of the White and minority students.

V.13 That Board has not integrated or racially balanced its schools during the past years because it lacked or lacks funds to do so. That it could not have integrated or racially balanced its schools without sacrificing the academic achievement of its White pupils or any of its pupils.

V.14 That integration would require massive expenditure of funds or that the costs thereof can only be created by substantial reductions in the educational processes or programs of Board.

The Court does find true: That, upon the trial of this cause, Board conceded and agreed that it did not claim impossibility of performance of, or financial inability or frustration preventing it from, integrating its schools if a duty so to do is specially imposed upon it by law. That when and only when Board evolves and adopts a Master Plan of Integration, together with the manner, means, methods, mechanics, designs, tools and techniques of and for the putting into effect and carrying out such Master Plan, and, as a part thereof,

makes a thorough, unprejudicial study and thereby a determination of the costs thereof, that is, the costs of the manner, means, methods, mechanics, designs, tools and techniques of putting said Master Plan into effect, none of which Board has done to the date hereof, will it then know with reasonable certainty the costs thereof.

V.15 The affirmative allegations of Paragraph IV of Board's Ans., excepting only that the Court finds true: That, to and only to the extent that Board receives grants, federal and state, therefor, does it establish and operate compensatory educational programs "for its educationally or culturally deprived students, most of whom are from a racial minority group". That compensatory education does not provide the most important determinant of academic achievement for minority pupils. It merely endeavors to help the minority child overcome the learning and knowledge defects caused by and to adjust to the

societal arrangement that created his problem in the first place, i.e., segregation and segregated schools.

V.16 The affirmative allegations of Paragraph V of Board's Ans.; excepting only that the Court finds true: "that historically it [Board] has selected its school sites and has built its school plants as close as financially possible to the center of the area in which the pupils live", even though Board thereby created or maintained and perpetuated segregated schools; and "that the attendance area zones surrounding such school plants are based upon capacity of the school, safety and hazard factors, distance to be traveled between home and school, natural, geographic or other physical barriers", without regard to integration and without regard to the effect upon equal educational opportunity of the students thereof by virtue of said schools being, or becoming within a relatively short period of time, segregated schools.

V.17 The affirmative allegations of Paragraph VI of Board's Ans.; excepting only that the Court finds

true: that Board has had and does have policies of "issuing permits to pupils authorizing them to attend schools other than the school serving the area of their residence whenever there is unused capacity in such other schools", but that policies did not and do not provide transportation for disadvantaged children, did not and do not educate the parents of minority students of the existence and benefits to be derived therefrom, were on a first-come, first-issued basis, and the alleged unused capacity was minimal, so that, in practice and effect, said policies inured only to the benefit of the White students seeking to get out of and thereby enabled to transfer out of a segregated or racially imbalanced, predominantly minority school into a white school.

V.18 The affirmative allegations of Paragraph VII of Board's Ans.

V.19 The affirmative allegations of Paragraph VIII of Board's Ans.

The Court finds true:

(i) That the Bill of Rights, the Fifth and Fourteenth Amendments of the Constitution of the United States, Article I, Section 11, Article IX, Section 1, of the California Constitution, and Sections 2010 and 2011 of Title V of the Administrative Code of the State of California (promulgated by the State Board of Education), as they were in effect at the time of the trial of this proceeding, required and, excepting only said Sections 2010 and 2011 now allegedly repealed, require Board to grant to all of its pupils equal educational opportunity; and

(ii) That equal educational opportunity can only exist in integrated schools; and

(iii) That to perform the said duty specially imposed upon it by law Board has the power to, and is obligated to, in order to provide equal educational opportunity to all of its pupils, compel them to attend certain schools to be designated by it, because of their race or color and to deny pupils the right to attend

schools selected by them or their parents solely because of their race or color; and

(iv) That Board stands in loco parentis to its pupils and is mandated by law not to do or omit to do, directly or indirectly, anything which will or may prohibit or impede their said pupils from receiving, and to render to them, equal educational opportunities. Duties specially imposed by law confer all powers reasonably necessary for the performance thereof; and

(v) That a pupil has no right to select and determine the particular public school which he shall attend; and

(vi) That, since and only since 1966 when the Board was mandated by State Board so to do, it has made a compilation or survey of the ethnic compositions of its schools; and

(vii) That the schools under the jurisdiction of Board are approximately 555 in number (elementary, junior high, senior high schools), Board no longer having jurisdiction over junior colleges. That the

area served by Board is approximately 711 square miles. That Board's pupils number approximately 648,000.

V.20 The allegations of Paragraph IX of Board's Ans.; excepting only that the Court finds true: that Board has established a few small and insignificant pilot integration programs, but did not make any in-depth analysis thereof so as to be enabled to determine the effect thereof. That said programs were not, in fact, programs or studies of integration, in that Board has never formulated or adopted any definition of "integration" or plan or plans therefor.

VI. The Court makes no findings upon:

VI.1 The allegations, beginning with the word, "Among", in Line 24, p. 5, to Line 4, p. 6, a part of Paragraph 14 of Pet. The Court finds true the allegations of said Paragraph 14 that Board "at all times material hereto has failed to take reasonable steps to alleviate and eliminate racially segregated conditions in the public schools within the District".

The Court herein adjudging Board's duties specially imposed upon it by law and ordering the issuance of a Peremptory Writ of Mandate directed to Board, ordering it to, in good faith and with all reasonable and due diligence, evolve and adopt a Master Plan, together with methods, means, manner, mechanics, designs, tools and techniques for the carrying out thereof, having for its objective and purpose the integration of all of its schools, and thereupon to present it to the Court for its approval as fulfilling said Writ and the duties specially imposed upon it by law, the Court does not, in advance make any findings thereon, thereby allowing Board the widest possible latitude therefor, excepting only that said Master Plan shall be applicable to the entire of Board's District. Board is and should be allowed, in good faith, to evolve, evaluate and thereupon adopt the best and most expeditious Master Plan for the integration of the schools of its District and the modes, means, manners, steps, mechanics, designs, tools and

techniques for the implementation of said Master Plan which will work. Board will have the burden, upon the return of said Master Plan to and hearings before this Court, to show that said Master Plan will work and will achieve such integration.

VI.2 The Court makes no finding at this time, whether, as Board has argued, if integrated education be imposed within its entire District, whites will flee therefrom. The Court does however conclude as a matter of law that the "fleeing of the whites", if it should occur, cannot and does not and will not justify segregated education or the denial by Board to all of its pupils of equal educational opportunity by and through integrated education. Whites are not to be induced to or caused to remain within Board's District by Board depriving its minority pupils of their constitutional, inalienable rights. Neither does white racism or minority racism excuse or justify Board's non-compliance with the duties specially imposed by law upon it.

VII. In the event that any of the following Conclusions of Law are claimed or held to be Findings of Fact, they are by reference incorporated herein, hereat, verbatim.

As Conclusions of Law from the foregoing Findings of Fact

CONCLUSIONS OF LAW

I. In the event that any of the foregoing Findings of Fact are claimed or held to be Conclusions of Law, they are by reference incorporated herein, hereat, verbatim.

II. That Petitioners and the class in whose behalf this proceeding was instituted and prosecuted did not have and do not have any plain or speedy or adequate remedy at law. Their only remedy is this proceeding for Writ of Mandate to compel performance by Board of the duty specially imposed by law upon it.

III. There is a legal right on the part of all of the children of District to equal educational opportunity in its schools. The duty to provide such right has been by

law specially imposed upon State and, through it, upon District and Board as District's governing body.

IV. The right to equal educational opportunity is an inalienable right, within the Bill of Rights, the Fifth and Fourteenth Amendments of the United States Constitution, Article I, Sections 1, 3 and 13, and Article IX of the California Constitution, Rule 2010, as now and hereafter providing, of Title V of the California Administrative Code, the Rules of the State Board of Education. The right of all pupils, Grades K through 12, being involved herein, to attend school and to receive the opportunity to acquire an equal education equal to the educational opportunity offered to all other pupils, irrespective of race, color, creed, economic or social circumstances, is a fundamental right, a legal right, a species of property, equal to, if not greater than, other tangible property rights, it being the right to be a human being, and said right requires that they receive said opportunity in integrated schools.

V. That the following facts have heretofore been judicially adjudged as existing, and the following principles and holdings of law adjudicated. The Court and the parties hereto are bound thereby:

(i) (Brown v. Board of Education of Topeka (Brown I) (May 17, 1954), 347 U.S. 483, 74 Supreme Court 686, 98 L. ed. 873, 880-88)

> "Today, education is perhaps the most important function of state and local governments. Compulsory school attendance laws and the great expenditures for education both demonstrate our recognition of the importance of education to our democratic society. It is required in the performance of our most basic responsibilities, even service in the armed forces. It is the very foundation of good citizenship. Today it is a principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him to adjust normally to his environment. In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the state has undertaken to provide it, is a right which must be made available to all on equal terms.
>
> * * *
>
> "Does segregation of children in public schools solely on the basis of race, even

though the physical facilities and other 'tangible' factors may be equal, deprive the children of the minority group of equal education opportunities? We believe that it does.

"In Sweatt v. Painter, supra, in finding that a segregated law school for Negroes could not provide them equal educational opportunities, this Court granted relief in large part on 'those qualities which are incapable of objective measurement but which make for greatness in a law school.' In McLaurin v. Oklahoma State Regents, supra, the Court, in requiring that a Negro admitted to a white graduate school be treated like all other students, again resorted to intangible considerations; '* * * his ability to study, to engage in discussions and exchange views with other students, and, in general, to learn his profession.' Such considerations apply with added force to children in grade and high schools. To separate them from others of similar age and qualifications solely because of their race generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely ever to be undone. The effect of this separation on their educational opportunities was well stated by a finding in the Kansas case by a court which nevertheless felt compelled to rule against the Negro plaintiffs:

> 'Segregation of white and colored children in public schools has a detrimental effect upon the colored children. The impact is greater when it has the sanction of the law; for the policy of separating the races is usually

> interpreted as denoting the inferiority of the negro group. A sense of inferiority affects the motivation of a child to learn. Degregation with the sanction of law, therefore, has a tendency to [retard] the educational and mental development of Negro children and to deprive them of some of the benefits they would receive in a racial[ly] integrated school system.'
>
> "Whatever may have been the extent of psychological knowledge at the time of Plessy v. Ferguson, this finding is amply supported by modern authority. * * *
>
> "We conclude that in the field of public education the doctrine of 'separate but equal' has no place. Separate educational facilities are inherently unequal. Therefore, we hold that the plaintiff's and others similarly situated for whom the actions have been brought are, by reason of the segregation complained of, deprived of the equal protection of the laws guaranteed by the Fourteenth Amendment." (347 U.S. 493-495.)

(ii) (J. R. Jackson, Jr., et al. v. Pasadena City School District, et al. [Jackson] (June 27, 1963), 59 Cal.2d 876, 880-81.)

> "The segregation of school children into separate schools because of their race, even though the physical facilities and the methods and quality of instruction in the several schools may be equal, deprives the children of the minority group of equal

opportunities for education and denies them equal protection and due process of law. [Citations.] In view of the importance of education to society and to the individual child, the opportunity to receive the schooling furnished by the state must be made available to all on an equal basis. Because of intangible considerations relating to the ability to learn and exchange views with other students, segregated professional schools have been held not to provide equal educational opportunities, and such considerations apply with added force to children in grade and high schools. The separation of children from others of similar age and qualifications solely because of race may produce a feeling of inferiority which can never be removed and which has a tendency to retard their motivation to learn and their mental development. [Citations.] * * * Improper discrimination may exist notwithstanding attendance by some white children at a predominantly Negro school or attendance by some Negro children at a predominantly white school. * * * A racial imbalance may be created or intensified in a particular school not only by requiring Negroes to attend it but also by providing different schools for white students who, because of the proximity or convenience, would be required to attend it if boundaries were fixed on a non-racial basis. * * * Even in the absence of gerrymandering or other affirmative discriminatory conduct by a school board, a student under some circumstances would be entitled to relief where, by reason of residential segregation, substantial racial imbalance exists in his school. So long as large numbers of Negroes live in segregated areas, school authorities

> will be confronted with difficult problems in providing Negro children with the kind of education they are entitled to have. Residential segregation is in itself an evil which tends to frustrate the youth in the area and to cause antisocial attitudes and behavior. Where such segregation exists it is not enough for a school board to refrain from affirmative discriminatory conduct. The harmful influence on the children will be reflected and intensified in the classroom if school attendance is determined on a geographic basis without corrective measures. The right to an equal opportunity for education and the harmful consequences of segregation require that school boards take steps, insofar as reasonably feasible, to alleviate racial imbalance in schools regardless of its cause." (59 Cal.2d at 880-81.)

(iii) (United States of America, et al. v. Jefferson County Board of Education, et al. (March 29, 1967), 380 F.2d 385; Cert. denied October 9, 1967; 88 Supreme Court 72, 77.)

> "If Negroes are ever to enter the mainstream of American life, as school children they must have equal educational opportunities with white children." (380 F.2d at 389.)

VI. The right to education existing, the duty was and is imposed upon Board to provide such education

within its District. Such duty to provide education, and the right of all pupils thereto, prohibits Board from creating or maintaining and perpetuating separate but allegedly equal facilities, and includes the right to, and the duty on Board to provide to all of its pupils, equal educational opportunity which is a concommitant of equal protection of the law and due process of law. Separate education, with allegedly separate but equal facilities, is not equal education. Therefore, Board has had the duty, has the duty and will continue to have the duty to provide integrated education so that all of its pupils—White, Negro, Mexican-American and Oriental—receive together the same educational opportunity. The duty of Board in this connection is affirmative, not negative.

VII. The Fourteenth Amendment to the Constitution of the United States imposes a duty on the part of Board, as an agency and instrumentality of this State, Board's acts and omissions being the acts and omissions of State, that when any action was, is or will be

undertaken by Board, it must conform to and confer equal protection of the laws, due process of law and equal educational opportunity. Board's action and omissions need not be the sole cause of the denial of equal protection of the laws or due process of law to constitute a breach by Board of its duties specially imposed by law. The duties specially imposed upon Board by law are breached when discrimination results at least in part from its actions which are to some significant extent involved.

Action on the part of Board, and therefore State action, was, is and will be significantly involved in the discrimination existent within Board's segregated schools and segregated education, so as to fall within the prohibitions of the Fifth and Fourteenth Amendments to the Federal Constitution, because, among other actions:

(i) The State having undertaken through School Districts and Board, as the governing body of the District herein involved, to provide educational

facilities to the youth of the State, Board was and is and will continue to be required to do so in a manner which avoided, avoids and will avoid segregation and unreasonable racial imbalance in its schools; and

(ii) Board lent and is lending its power and authority, its finances and processes, to create, maintain and perpetuate segregated schools and segregated education. Its actions have, are and will continue to discourage integration. It instigated, instigates, encouraged and encourages segregation even though such goal may not have been within Board's stated purposes. Though Board action took many forms, the test is not the form taken but rather the ultimate result which was, is and will be achieved through and by its powers, authority, finances and processes. Discrimination having been, being and continuing to be thus accomplished, the nature of Board's said actions is not limited by the ingenuity of those who would seek to conceal it by subtelties and claims of neutrality; and

(iii) Board has expended, is and will continue to expend billions of dollars of public monies for the creating, protecting, maintaining and perpetuating of its segregated schools, selecting and purchasing sites and building schools in segregated neighborhoods, knowing that such schools would be or become, upon their opening or within a short period of time thereafter, segregated or racially imbalanced; and

(iv) Board set, sets and will continue to set attendance boundaries and mandated school attendance by minority pupils and thereby compelled them to attend minority segregated schools, thereby discouraging and impeding or preventing and prohibiting them from attending white or substantially all-white schools; and

(v) Board, by its admitted conduct in providing "* * * to all students a minimum educational offering in such amount and quality that the average achievement of the racially higher achieving group will not substantially decline", discriminated against

minority pupils in favor of White pupils; such action perpetuated the disparity existing, which Board caused to exist and will continue to exist because of its segregated schools; and

(vi) The segregation in Board's schools, both white segregated and minority segregated schools, was not and is not de facto. It was and is de jure.

The labeling of segregation as de jure or de facto does not change the fact of segregation. Each is merely a legal designation, a legal handle in the formulation of duties. The duty to grant and give to all pupils, including the minority pupils, equal educational opportunity, is affirmative, the counterpart of depriving by prohibiting.

The Fifth and Fourteenth Amendments prohibited the denial of the rights thereof and imposed a duty on Board, at the very least, not to do anything, directly or indirectly, by any manner or means or omissions, to perpetuate the withholding of the rights, a duty not to do anything, directly or indirectly, by any manner or

means or omissions, which in fact educationally discriminated against the right, a duty to in no manner or by any means aid in the deprivation of the right; and

(vii) Board denied free transportation to socio-economically disadvantaged minority pupils, attending and compelled by Board to attend segregated schools, to enable them to attend another school outside of their mandated neighborhood, thereby discouraging and impeding or preventing and prohibiting them from attending white or substantially all-white schools.

The doing by Board of, among others, said acts and activities constituted, factually as well as legally, the impeding, discouraging and preventing of the exercise of constitutional rights by its pupils and was, therefore, the establishment of de jure segregated education.

It is virtually impossible, in the creation and maintenance of neighborhood schools and the mandating of pupil attendance thereat, which schools

are in fact segregated, to have only so-called de facto segregation; said were and are created, and maintained and perpetuated, by public monies, i.e., derived from taxes imposed on the public. Segregation in public education is not reasonably related to any proper governmental objective.

VIII. The issue herein is not a social issue, not a technicality, but one of constitutional rights, whether in education separate but allegedly equal is equal. Board has great discretionary powers in determining the curriculum, the mode and manner of teaching, establishing and maintaining the public schools and the educational processes; and the Court will not impose its judgments thereon. But Board is a Trustee, a fiduciary, to all of its pupils, and owes to each of them a duty, in the highest of good faith, not to discriminate but rather to give and make available to all equal educational opportunity, not to give to one that which it denies or withholds from another, but equally, without favoritism, without preconceived assumptions

of superior or inferior educational capabilities, without segregation, whether by reason of race or color or creed or economic or social circumstances.

IX. Board's position that "the school district should compare the educational effects of a given number of dollars spent on one input with the educational effects of the same number of dollars spent upon another school input", in deciding whether it will integrate education, overlooks its duty to all of its said pupils. The duty cannot be performed by favoring one race over another because of Board's belief, assumed, that minorities inherently are less educable. There can only be a true comparison of the effect of expenditure of a given number of dollars spent on one input with educational effects of the same number of spent on another input when all pupils have first had, and for a reasonable period of time sufficient to overcome the detrimental effects of the discrimination heretofore suffered by them, equal educational opportunity, so that when funds are spent

on a particular input that input will be provided to all pupils who will have the benefits of the same equal educational opportunity.

X. Nothing herein is intended to, nor shall it, prevent Board from expending any surplus funds, surplus after having first created equal educational opportunity, for special programs for all gifted children and other forms of higher educational processes.

XI. Board, as an agency and instrumentality of the State, is bound by and must comply with the State Board's determinations and definitions respecting integrated education, and its Rules thereon, as long as such determinations, definitions and Rules comply with Board's pupils' constitutional rights.

Neither the United States Constitution nor the California Constitution nor any of the provisions of the California Education Code nor any of the decisions of the United States Supreme Court or of the Appellate Courts of this State specifically define "integration",

"segregation", "racial balance" or "racial imbalance". During the course of the trial of this cause, State Board adopted, pursuant to the power vested in it by the Education Code of the State of California, its amended Rules 2010 and 2011 (Sections 2010 and 2011 of Title V of the Administrative Code); said Rules, in effect, defined a racially imbalanced school and, by necessary implication, a racially balanced school. Because said Rules had the force and effect of statutory law, the Court, in its "Minute Order of Court's Intended Findings of Fact, Conclusions of Law, Judgment and for Peremptory Writ of Mandate" (filed February 11, 1970) [Minute Order], construed them and held that as so construed they were and are binding on the Court and on the parties. The Court held and holds that: State Board does and must have the power to promulgate Rules, defining and ordering integration, desegregation and racial balance, within all of the public schools of State, by and through its Districts, which Rules will bind District and Board; for,

otherwise, there could possibly be as many definitions and rules of integrated education, racial balance and imbalance as there are Districts within the State. The rules and definitions of integration, segregation, racial balance and imbalance must be uniform throughout the State, for it is State action. State Board has failed, by reason of its alleged repeal and revocation of its aforefound Rules 2010 and 2011, to define and provide for integrated education throughout the State. Therefore, the Court has the jurisdiction and power to define and command integrated education within District. When, as and if State Board shall, upon the notice and procedure provided by State law, duly and regularly adopt Rules defining and providing for integration of and integrated education in all of the public schools within all of its school Districts, such Rules, conforming to law, will supersede the definition of integration and integrated education herein found and adjudged; and in that event this Court's jurisdiction will become restricted and proscribed by

Government Code Section 11440 as presently existing and hereafter modified or amended. An administrative remedy being provided thereby, it is required to be first exhausted by the parties.

IX.A. Subsequent to the Court's Minute Order of February 11, 1970, and on or about March 12, 1970, State Board repealed said Sections 2010 and 2011, as previously amended, in their entirety. State Board has not to the date hereof adopted any Rules defining "integration" or "segregation" or "racial balance" or "racial imbalance". Petitioners' rights and Board's duties are to be determined and adjudged as of the time of trial and judgment herein.

Therefore, the Court, from the evidence adduced upon the trial hereof, finds and adjudges:

(i) That, to constitute a racially integrated school in Board's District, the school's pupil enrollment must consist of not more than approximately forty-nine per cent and not less than ten per cent minority

pupils, the remainder of the student body consisting of white pupils;

(ii) That, to constitute a racially balanced school in Board's District, the school's pupil enrollment must consist of approximately the same racial proportions as exist in Board's District as a whole;

(iii) That a segregated school, in Board's District, is a school whose pupil enrollment consists of substantially more than forty-nine per cent of minorities, or any one thereof, or substantially more than fifty per cent whites;

(iv) That a racially imbalanced school, in Board's District, is a school whose pupil enrollment consists of substantially more of any one race or ethnic group than exists in Board's District as a whole;

(v) That the variations in composition of pupil enrollment, such as "approximately" or "substantially", as hereinbefore in these subparagraphs used, envision the human inability to achieve exact racial proportions in mixing the races and pupils, but

the result of the exercise of the highest of good faith and fair dealing in attempting to achieve an integrated enrollment in any one school. Board is charged by law, is under a duty specially imposed by law, in the exercise of the highest of good faith and fair dealing toward its pupils, to use and exercise its powers and authority, finances and processes so as to achieve, as closely as such good faith and fair dealing will reasonably enable and allow it to do, integration and racial balance in each of its schools so as to have a unitary school system.

XII. That no discretion or right is vested in Board by law to decide whether, in its opinion, integrated education will or will not affect the educational achievement of majority or minority pupils or whether or not, in Board's opinion, it is or is not "feasible" for Board to comply therewith. Board is under a duty specially imposed by law to comply therewith.

XIII. Whatever Master Plan or plans for integration be adopted by Board will require evaluation

in practice. The Court shall therefore retain jurisdiction until it is clear that segregation has been completely removed from Board's schools and that it has achieved substantial integration thereof.

XIV. Board's alleged open-transfer policies were not designed realistically to bring about, have not and will not bring about, desegregation. They were not and are not a plan for desegregation or integration. Open-transfer plans must be reasonably designed to and must meet realistically the problems of desegregation and integration. Therefore, Board's aforedescribed open-transfer policies are invalid.

XV. Board is under a duty specially imposed by law, with all due diligence and speed, to, in the exercise of the highest of good faith, accomplish the following:

(i) Evolve and adopt a meaningful Master Plan of Integration, a plan that will realistically work within a reasonable period of time, having for its aim, purpose and object a racially non-discriminatory

unitary school system comprising and applying to all of its schools as a whole and not merely for one or a group of schools, leaving others segregated; and

(ii) Evolve and adopt, as a part of the Master Plan the methods, means, mechanics, designs, tools and techniques to make said Master Plan work; and which shall in fact work; and

(iii) The Master Plan shall be made legally effective within and upon, i.e., imposed upon, the entire of Board's District at one time. If the consummation thereof in good faith requires the carrying out thereof in several steps over a reasonable period of time, Board may do so. The Court retains jurisdiction to determine and fix, from time to time, the reasonable periods of time for the step or steps for the carrying out and consummation of said Master Plan. The condition precedent therefor shall be good cause shown and the exercise of the highest of good faith by Board and its Executive Staff in attempting to carry out and consummate the Master Plan; and

(iv) The Master Plan shall incorporate the definition of "integration", an "integrated school", a "racially balanced school", a "segregated school", a "racially imbalanced school" and the "variations in composition of pupil enrollment", as hereinbefore provided. Board shall integrate its schools in accordance therewith; and

(v) The Master Plan shall, among other things, by its terms provide for: the manner and means of its periodic public review, with reasonable notice to parents of children involved, so that its schools shall at all times be integrated; and

(vi) The Master Plan shall provide for, and the methods, means, manner, mechanics, designs, tools and techniques shall effect, the selection of new school sites and construction of schools for and that shall eliminate segregated schools and create integrated schools, an integrated unitary school system.

XVI. Therefore, Board shall, and a Writ of Mandate shall be issued herein commanding it:

(i) To present to this Court, on or before the lst day of July, 1970, for its approval, in compliance with the Judgment of this Court and said Writ, upon notice to Petitioners and, as shall be prescribed by the Court, notice to the parents of Board's pupils of the hearing thereon, said Master Plan, together with the method, means, manner, mechanics, designs, tools and techniques for the carrying out and consummation of said Master Plan; and

(ii) That said Master Plan shall be designed for and be made legally effective and imposed upon the entire District and placed into operation prior to the school year commencing on or about September, 1970, so that in and during said school year, and under no circumstances to exceed the school year commencing September, 1971, said Master Plan shall be imposed upon, carried out and operating within and as to all of the schools in Board's District.

The Court retains jurisdiction to, for good cause shown and the exercise by Board and its Executive Staff of the highest of good faith, extend the foregoing specifed times. That only a prompt start, diligently, in good faith, pursued, to eliminate racial segregation from Board's schools, can constitute good-faith compliance and shall constitute a condition precedent to good cause; and

(iii) That Board is duty bound and shall, and the Peremptory Writ shall command it to, devote every reasonable effort, in the highest of good faith, toward initiating the desegregation of, bringing about the elimination of racial discrimination in, its public school system, at and within the times aforesaid.

The Court retains jurisdiction to hear, approve or disapprove said Master Plan and its methods, means, manner, mechanics, designs, tools and techniques for the carrying out thereof.

XVII. That Petitioners are entitled to have and recover of and from Respondent, as the reasonable

value of the services of their Counsel upon this proceeding, the sum $65,000.00 together with interest thereon at the rate provided by law, from and after the entry of Judgment herein and until payment thereof, plus Petitioners' costs and disbursements herein, also to be paid directly to Counsel.

XVIII. The Court retains jurisdiction, when the Judgment herein shall become final, to allow additional attorney's fees to Petitioner, for their Counsel, the sums allowed to be paid to such Counsel, for the reasonable value of the services which may be performed by Counsel from and after the date of entry of Judgment and the issuance of the Writ of Mandate and the entry of the Order on any motion for new trial. If such motion is made, and until the Judgment herein shall become final. Said fees so allowed shall be paid by Board.

XIX. The Court retains jurisdiction to appoint one or more Experts, upon motion of either party or on the Court's own motion, to assist and advise the Court in

the particulars, and for the purposes, set forth in the Court's Findings of Fact, and to fix and award to such Expert or Experts, from time to time, reasonable compensation for his or their said services. The compensation so fixed and allowed to be paid by Board.

XX. Board shall not, and the Peremptory Writ shall command it not to and prohibit it from, pending the adoption and approval of said Master Plan of Integration, do anything including by way of specification and not by way of limitation the selection of sites, construction of new schools, construction of additions to existing schools, adoption or modification of transfer policies or transportation policies, adoption, changes or modification of school attendance boundaries, which will maintain or continue or preserve or tend to maintain or continue or preserve the minority segregation presently existing in its schools. Board shall, and the Peremptory Writ shall command it to, and prohibit it from doing otherwise,

during said period of time, only select sites and build schools and build additions to its existing schools, and adopt or modify transfer policies and adopt or modify transportation policies, and do all other things reasonably necessary for and having as its objective and purpose the integrating of its schools and the desegregation of its schools now segregated.

XXI. Let a Peremptory Writ of Mandate issue, ordering Respondent as hereinabove adjudged and commanding it to appear before this Court, as aforesaid, upon notice, as aforesaid, on or before July 1, 1970, at the hour of 9:00 a.m., then and there to show cause what it has done to comply with said Writ of Mandate.

XXII. Judgment and the Writ of Mandate shall be entered accordingly.

XXIII. Let Judgment be entered.

DATED: May 12, 1970

/s/ALFRED GITELSON
Alfred Gitelson
JUDGE OF THE SUPERIOR COURT

SUPERIOR COURT, JUDGMENT FOR DAMAGES, COSTS AND PEREMPTORY WRIT OF MANDAMUS, DATED MAY 12, 1970

[3 C.T. 619-623]

ORDERED, ADJUDGED AND DECREED:

I. That Board is under a duty specially imposed by law, with all due diligence and speed, to, in the exercise of the highest of good faith, do all things and take all actions reasonably necessary to accomplish the following:

(i) Evolve and adopt a meaningful Master Plan of Integration, a plan that will realistically work within a reasonable period of time, having for its aim, purpose and object a racially non-discriminatory unitary school system comprising and applying to all of its schools as a whole and not merely for one or a group of schools, leaving others segregated; and

(ii) Evolve and adopt, as a part of the Master Plan, the methods, means, mechanics, designs, tools

and techniques to make said Master Plan work; and which shall in fact work; and

(iii) The Master Plan shall be made legally effective within and upon, i.e., imposed upon, the entire of Board's District at one time. If the consummation thereof in good faith requires the carrying out thereof in several steps over a period of time, Board may do so. The Court retains jurisdiction to determine and fix, from time to time, the reasonable periods of time for the step or steps for the carrying out and consummation of said Master Plan. The condition precedent therefor shall be good cause shown and the exercise of the highest of good faith by Board and its Executive Staff in attempting to carry out and consummate the Master Plan; and

(iv) The Master Plan shall incorporate the definition of "integration", an "integrated school", a "racially balanced school", a "segregated school", a "racially imbalanced school" and the "variations in composition of pupil enrollment", as hereinbefore

provided. Board shall integrate its schools in accordance therewith; and

(v) The Master Plan shall, among other things, by its terms provide for: the manner and means of its periodic public review, with reasonable notice to parents of children involved, so that its schools shall at all times be integrated; and

(vi) The Master Plan shall provide for, and the methods, means, manner, mechanics, designs, tools and techniques shall effect, the selection of new school sites and construction of schools for and that shall eliminate segregated schools and create integrated schools, an integrated unitary school system.

II. Therefore, Board shall, and a Writ of Mandate shall be issued herein commanding it:

(i) To present to this Court, on or before the 1st day of July, 1970, for its approval, in compliance with the Judgment of this Court and said Writ, upon notice to Petitioners and, as shall be prescribed by the

Court, notice to the parents of Board's pupils of the hearing thereon, said Master Plan, together with the method, means, manner, mechanics, designs, tools and techniques for the carrying out and consummation of said Master Plan; and

(ii) That said Master Plan shall be designed for and be made legally effective and imposed upon the entire District and placed into operation prior to the school year commencing on or about September, 1970, so that in and during said school year, and under no circumstances to exceed the school year commencing September, 1971, said Master Plan shall be imposed, carried out and operating within and as to all of the schools in Board's District.

The Court retains jurisdiction to, for good cause shown and the exercise by Board and its Executive Staff of the highest of good faith, extend the foregoing specified times. That only a prompt start, diligently, in good faith pursued, to eliminate racial segregation from Board's schools, can constitute good-faith

compliance and shall constitute a condition precedent to good cause; and

(iii) That Board is duty bound and shall, and the Peremptory Writ shall command it to, devote every reasonable effort, in the highest of good faith, toward initiating the desegregation of, bringing about the elimination of racial discrimination in, its public school system, at and within the times aforesaid.

The Court retains jurisdiction to hear, approve or disapprove said Master Plan and its methods, means, manner, mechanics, designs, tools and techniques for the carrying out thereof.

III. That Petitioners do have and recover of and from Board, as the reasonable value of the services of their Counsel upon this proceeding, the sum of $65,000.00 together with interest thereon at the rate provided by law, from and after the entry of Judgment herein and until payment thereof.

IV. That the Court retains jurisdiction, when the Judgment herein shall become final, to allow

additional attorney's fees to Petitioners, for their Counsel, the sums allowed to be paid to such Counsel, for the reasonable value of the services which may be performed by Counsel from and after the date of entry of Judgment and the issuance of the Writ of Mandate and the entry of the Order on any action for new trial, if such motion is made, and until the Judgment herein shall become final. Said fees so allowed shall be paid by Board.

V. That the Court retains jurisdiction to appoint one or more Experts, upon motion of either party or on the Court's own motion, to assist and advise the Court in the particulars, and for the purposes, set forth in the Court's Findings of Fact, and to fix and award to such Expert or Experts, from time to time, reasonable compensation for his or their said services. The compensation so fixed and allowed to be paid by Board.

VI. Board shall not, and the Peremptory Writ shall command it not to and prohibit it from, pending the

adoption and approval of said Master Plan of Integration, do anything, including by way of specification and not by way of limitation the selection of sites, construction of new schools, construction of additions to existing schools, adoption or modification of transfer policies or transportation policies, adoption, changes or modification of school attendance boundaries, which will maintain or continue or preserve or tend to maintain or continue or preserve the minority segregation presently existing in its schools. Board shall, and the Peremptory Writ shall command it to, and prohibit if from doing otherwise, during said period of time, only select sites and build schools and build additions to its existing schools, and adopt or modify transfer policies and adopt or modify transportation policies, and do all other things reasonably necessary for and having as its objective and purpose the integrating of its schools and the desegregation of its schools now segregated.

VII. That a Peremptory Writ of Mandate do issue, ordering Respondent as hereinabove adjudged and commanding it to appear before this Court, as aforesaid, upon notice, as aforesaid, on or before July 1, 1970, at the hour of 9:00 a.m., then and there to show cause what it has done to comply with said Writ of Mandate.

VIII. That Petitioners do have and recover of and from Respondent, Petitioners' costs and disbursements herein, hereby taxed in the sum of $56,662.12. Said sum shall be paid directly to Counsel for Petitioners.

The Clerk shall enter this Judgment.

DATED: this 12 day of May, 1970.

/s/ALFRED GITELSON
Alfred Gitelson
JUDGE OF THE SUPERIOR COURT

SUPERIOR COURT, MINUTE ORDER, DATED JULY 5, 1977
[8 C.T. 2267-2279]

The mandate previously issued in 1970 by this Court to desegregate the Los Angeles Unified School District was affirmed by the California Supreme Court June 28, 1976. The response to that order was a plan for integration filed by the Los Angeles Unified School District (LAUSD) Board in this department on March 18, 1977. A hearing was immediately commenced to determine if this plan complied with that mandate. Nearly twelve weeks of testimony was produced in its support. At the end of the testimony, a motion was made by petitioners, and joined in part by intervenors Integration, Watson and B.E.S.T., requesting the plan be rejected as insufficient compliance with the mandate. This court now grants petitioners' motion.

The plan fails because it does not desegregate any school in the district and even were it to be found by this Court that it would desegregate schools, it would

reach so few of the 231 segregated minority schools as to be wholly ineffective in desegregating this district.

This conclusion is based upon the Court's perception of the following evidence:

LAUSD pupil census as of October, 1976 — kindergarten through twelfth grade — was 592,931, distributed among 559 schools, of which:

435 are elementary schools

75 are junior high schools

49 are senior high schools.

The ethnic and cultural identification of these students was, as of October 1976:

WHITE:	219,359 or 37.0%
BLACK:	142,778 or 24.1%
HISPANIC:	190,363 or 32.1%
OTHER NON-WHITE MINORITY:	40,431 or 6.8%

The Board in the plan identifies as segregated schools, those schools having a minority (non-white) to white or white to minority ratio of not less than 80%

to 20%. All other schools by this definition are integrated.

The segregated schools are either segregated minority or segregated white. It is the former which will be further described.

Of the total segregated minority schools:

183 are elementary schools

26 are junior high schools

22 are senior high schools.

Within the segregated minority elementary schools there are:

113 schools—98% to 100%—having
101,162 minority students

24 schools—95% to 97%—having
17,797 minority students

46 schools—80% to 94%—having
34,745 minority students

TOTAL 183 [schools having]
153,704 [minority students]

Within the segregated minority junior high schools there are:

17 schools—98% to 100%—having
31,577 minority students
5 schools—95% to 97%—having
7,595 minority students

4 schools—80% to 94%—having
6,593 minority students

TOTAL 26 [schools having] 45,765
[minority students]

Within the segregated minority senior high schools there are:

14 schools—98% to 100%—having
25,385 minority students

4 schools—95% to 97%—having
8,395 minority students

4 schools—80% to 94%—having
10,675 minority students

TOTAL 22 [schools having] 44,455
[minority students]

The mandatory portion of the Board's plan designates only 38 elementary segregated white and 55 elementary segregated minority schools as definitely being included in the desegregation process. Unaffected by any desegregation plan are 128 minority segregated elementary schools, of which 99 are in a 98% to 100% segregated minority classification; 12 in the 95% to 97% segregate minority classification; and 17 in the 80% to 94% segregated minority classification. A total of 111,761* of the 153,704 students in minority elementary segregated schools remain racially isolated.

The plan vaguely envisions that there shall be at least one year of integrated learning experience for students in their high school term (high school includes seventh through twelfth grades). Other than these

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*This figure is well understated because it assumes that all 50 elmentary schools in the mandatory phase are segregated minority. This is not necessarily true, but there is insufficient information to make any other assumptions.

vague voluntary programs no requirement for desegregation is indicated. The effect of this plan leaves most of the segregated junior and senior high schools in the district in a segregated condition. The vast majority of the 111,761 minority elementary students, who are untouched by this plan, will go to 95% to 100% segregated minority junior high schools and thence to segregated minority high schools. They will not have been relieved in any manner of their racial isolation during their entire school experience.

The basic tool of the plan is the Educational Planning Unit (EPU). This device is an attractive educational tool which clusters segregated schools and allows the parents and staff of the schools comprising the EPU to determine what type of voluntary integration will be accomplished within their units. The EPU concept has been praised by the witnesses produced by the Board because of its voluntary nature and the participation given the parents and staff of the schools

in choosing among the several programs offered for integration.

The plan has built-in constraints which prevent any effective expansion for increased impact on the segregated minority schools. Most inhibiting of these constraints are geographical and definitional. The scope of Educational Planning Units (EPUs), is determined by both. The limitation of mandatory transportation distance determines the geographical limits of the EPU. The definition of segregated schools and integrated schools determines which schools within those geographical limits may be included in an EPU. This last definition excludes all pupils in schools defined as integrated, which are within the geographical boundary of the EPU but regardless of the exact ratio of the majority to minority pupils, whether 79-21 or 50-50.

The Board concedes that the ratio by which a school is defined to be either integrated or segregated has no articulated rationality. Thus, by arbitrary

standards, large numbers of students may be included or excluded with any change of ratio defining segregated schools. With the existing definitions there are no mandatory provisions in the plan to expand the scope of the EPUs. These constraints not only operate on the mandatory provisions of the plan but limit the operation in the voluntary options given the schools participating in an EPU by limiting the number of schools in an EPU.

There is only one mandatory provision which remains as the sanction for failure to opt for a voluntary plan and it is to the mandatory provision that this order speaks, for if the EPU fails to elect a voluntary means of segregation by February 1978, the Board will require that a minimum of 50 elementary schools within the EPUs enter into the mandatory method of integration known as Specialized Learning Centers (SLC).

The ratio of the total student ethnicity within the EPU schools will be not less than 40/60% majority/ minority or minority/majority.

Nineteen elementary EPUs have been identified without definite determination of their sites.

Through the SLC, the Board contends that by bringing together youngsters of the same grade from schools comprising the EPU for part of a day and part of a year, the schools which each youngster attends as his home school will become desegregated. The SLC is planned to operate as follows:

> The kindergartners within the schools comprising the EPU are exempt from any integration.
>
> Children in grades 1 through 3 will be required to have a cultural exchange experience with children of the same grade of other schools comprisng that EPU for a minimum of ten days each scholastic year. These exchanges will be sharing experiences,

which the Court perceives to be in the form of field trips.

At the 4th through 6th grade levels, each child in the 50 schools will participate part-time in an SLC. For two-thirds of his normal school year he will maintain his regular school schedule and curriculum at the school to which he is regularly assigned. For one-third of the school year he will report, presumably one hour early, to his regularly assigned segregated school and remain there for one hour. During this hour, he will be given instructions in the basic skills; reading, mathematics and writing. He will then be placed on a bus and go to a facility housing the Specialized Learning Center. Upon his arrival with his home school teacher or aides, he will be met by two master teachers permanently assigned there, teaching aides, and youngsters from the same grade from the

other segregated schools comprising his EPU. His curriculum while there will be limited to the social sciences, with emphasis on non-competitive, cooperative and individual learning techniques. The youngsters will have lunch together, and at 2:00 or 2:30 p.m. each student will then be placed on a bus and returned to his regularly assigned segregated school. The defined SLC plans stop at the end of the sixth grade. Thereafter, he becomes eligible, if attending the right school, to participate for one year in a cultural exchange or integrated program before graduation from senior high school. This high school program is vaguely outlined in the plan without specific guidelines.

Much time expended in these hearings was in listening to testimony praising the educational concepts of the EPUs and the SLCs as valuable, although new and novel techniques for integration.

The Board's position is that these techniques are designed to alleviate the consequences of segregation and thereby desegregates schools. This view is not shared by this Court, nor by any other court in any reported cases where similar provisions for desegregation were advanced. No witness presented by the Board made such a claim and several asserted that the plan did not desegregate. This Court has repeatedly urged that desegregation must precede or accompany integration.

This Court agrees that the respondent Board is faced with a formidable task, given the geographical size of the district, the vast numbers of students, the increasing minority population, the decreasing white population, the numbers of limited-or-non-English speaking Hispanic students (100,000), the limitations on both taxation and expenditures of money, and lastly, the Board members' own personal perceptions of their constitutional duty. But nothing this Court has heard has sustained the argument of the Board that the

Board can do nothing further in relieving segregation. It is clear from the evidence that this plan, even if approved by this Court, would result in this district continuing to maintain three separate school systems: brown, black and white, each isolated from the other.

The voluntary aspects of the plan are limited by the EPUs to the schools comprising the EPUs and to an existing program called Permit With Transportation (PWT). This Court has previously noted in this order the constraints upon the voluntary aspects of the EPU component. PWT allows certain students to voluntarily bus out of their segregated school to other schools upon a space-and-transportation available basis and for so long as it helps desegregate the district. The plan envisions that the present PWT program will be increased from 9,500 users to 20,000 at the end of the academic year 1977-78 and thereafter to 30,000 at the end of the 1978-79 year. At present, the Permit With Transportation program is used almost entirely by minority students, busing themselves out of minority

segregated schools to segregated white schools. Said busing often consumes an hour to an hour-and-a-half one-way, and very seldom relieves the minority impact on the sending schools. The proposed increase in cost of this busing ($768 per annum per pupil) is more than three times the present cost of "distance and hazard" busing in the district (Less than $200 per annum per pupil). Testimony in the case indicates that there is little expectation that there will be any measurable increase in use of the PWT program by white students; that it primarily is a minority-used student program. PWT offers little hope to relieve desegregation because of the limited numbers envisioned in the plan; because it does not desegregate the sending schools; and, because of the high cost of maintaining the program. It is constitutionally suspect as a major desegregation device because it places the burden of relieving the racial isolation of the minority student upon the minority student.

The other components of the plan will not be discussed because of its two basic defects; to wit, the minimal scope in reaching the 231 segregated schools in this district, and the failure to desegregate any school that is within its limited scope.

The Court specifically finds that the plan was hastily conceived as a reaction to the implications of the CACSI plan and that no effective in-depth study was made of the effect of the plan upon segregated schools of this district, nor any cost/benefit analysis made of the plan, nor any alternative plans seriously considered.

This Court urges the Board to look realistically at this very difficult problem with the understanding that neither it nor this Court can ignore the mandate of the State Supreme Court. There is solace, perhaps, in knowing that by the end of 1975 there were at least 1500 school districts in the United State subjected to this same trauma; that most of these desegregation efforts have been successful, although some have not.

Their history teaches us that the index of a successful effort has been the resolution and good faith shown by a Board of Education and its staff in preparing and leading their community in a court ordered desegregation of its schools. It is the Court's hope that the Los Angeles School District will be as fortunate.

Therefore, and in light of the above, the Court orders the respondent Board of Education to:

1. Return to this Court within 90 days hereof a plan or plans which realistically commence the desegregation of this district by no later than February 1978, and which plan or plans promise within their terms to complete such desegregation process within a reasonable period thereafter.

2. In order that this Court may ensure that it has sufficient information to evaluate any plan or plans submitted, the Board shall consider all reasonable alternative plans to the plan or plans which it shall finally submit to this Court. Such alternates shall include other plans submitted to it and plans developed

internally. Both the plan or plans to be submitted and such alternates shall be either accompanied or supported by detailed findings and conclusions, including all evidentiary data; summaries of the opinions of experts' studies, both staff and outside; all statistical information; all cost and benefit studies; all financial information; all educational benefits and detriments; and, any and all information developed either in support of its final plan or plans or used in evaluating the alternative plans.

3. In evaluating and analyzing alternative plans, the Board shall not be precluded from reexamining Exhibit "A" or the CACSI plan.

4. The Board shall present to this Court, so that it may be able to judge the reasonableness and feasibility of any plan or plans presented it, a cost and feasibility study of desegregating all of the minority elementary schools within the

a) 98 to 100% minority segregated range;

b) 90 to 100% minority segregated range;

and,

c) 80 to 100% minority segregated range, without regard to any definition of integrated schools.

The same request is made for the Junior High Schools and Senior High Schools.

This order is made for the singular purpose of obtaining the cost and feasibility of a maximum effort in order that this Court may develop a standard for rationally judging the reasonableness and feasibility of any plan submitted.

5. The respondent Board shall prepare a tentative schedule for its study and deliberations and submit this schedule to this Court within fourteen (14) days hereof.

6. In order that the work of this Court shall be better assisted in the evaluation of the resoluteness of the Board in complying with the mandate, and further to ensure that the deadline herein are being met, and lastly, to help the Court in the ultimate evaluation of the completeness of the Board's compliance in any plan

or plans submitted, the Court intends to appoint as an offier of this Court, a Referee under Code of Civil Procedure section 639(4) to report to this Court periodically and also upon request, either in writing or orally, the efforts and work of the Board and its staff respecting compliance with this order. This officer shall be given full access to all information and proceedings of the Board and its staff concerning the respondent's compliance with this order. Upon application to this Court and on notice, he may request that this Court issue any further orders to assist him in this duty. His compensation shall be fixed and paid pursuant to further order.

7. The Board and its staff shall give to the designated representatives of the petitioners and all intervenors all reasonable access to the Board and its staff's planning process and data so that eventually this Court may be better informed.

8. The Court retains jurisdiction to make such further orders as may seem proper and just in the

circumstances and to conduct such hearings as may seem necessary to better inform it and to aid it in the enforcement of the mandate.

9. Pending further hearing. nothing in this order shall be construed to inhibit the Board from instituting any efforts to voluntarily desegregate its schools.

10) Upon the filing of the plan or plans, each of the other parties herein may file its written objections or support of that plan within fourteen (14) days thereafter, which time the Court shall then set a date for a hearing thereon. The procedure for such hearing to be determined by conference of the parties held prior thereto; the time and place to be set by this Court.

11) The Court now sets Thursday, July 7, 1977, at 10:00 a.m., as the date and time to consider what the respondent's claim to be an unruled upon motion and to further consider the designation of the Referee to be appointed and the instructions to be given him in

monitoring the proceedings of the respondent Board pending the submission of a plan.

DATED THIS 5th DAY OF JULY, 1977.

EGLY

SUPERIOR COURT, MINUTE ORDER, DATED FEBRUARY 7, 1978

[23 C.T. 6828-6834]

At the conclusion of respondent's case which constituted the filing of

(a) Exhibit 000;

(b) Six accompanying explanatory volumes;

(c) A file of those minutes of the meetings of the Board of Education in which the subject of discussion was desegregation;

(d) Filing of the declaration of the President of the Board, Howard S. Miller, setting forth the Board's intentions respecting indices of segregated schools; and

(e) The Board's answers to 22 questions propounded by this court.

Motions were made by the petitioners, intervenor Integration Project, intervenor Loveland and Keipp and intervenor BUSTOP on varying grounds to reject the plan encompassed in those filings.

The plan, described in brief, calls in broad terms for the eventual integration of the entire district. The plan requires, commencing September 1978, that an opportunity be given some students to voluntarily participate in the desegregation in all grades (K-12) district-wide. Various devices to attract such volunteers are proposed, such as magnet schools and optional enrollment plans. Options will also be given within certain selected school groups or leagues composed of segregated minority schools and segregated white schools in grades 4 through 8 to voluntarily desegregate. While within those grades in those leagues the emphasis will be on voluntary desegregation, the plan calls for alternate mandatory assignment, failing the exercise of the voluntary options. Plan II has no other mandatory provisions in or out of the league configurations to motivate voluntary choices. However, within the schools defined as currently integrated and within the league schools at grades 4 through 8, such mandatory provisions will

involve every white segregated elementary school and currently integrated school within the district and further anticipates the involvement of 64 minority segregated schools within those grades and within those leagues. Untouched by any mandatory provision, however, will be the remaining 204 minority segregated schools. The plan has no timetable bringing most of these schools or the omitted grades into any expanded voluntary program or any alternate mandatory program, nor details of any such provisions. Further, there is no discussion as to when the ultimate goal as set by the district for complete integration will be reached. Petitioners, intervenor Integration Project and intervenor Loveland and Keipp, point out that these deficiencies are fatal to the approval of this plan. Intervenor BUSTOP argues that the present mandatory provisions that are included require that the plan be rejected because of resegregation of the district through white flight. The respondent Board and intervenor B.E.S.T. support the plan while

admitting that there are omissions in specificity and ask that the Board be given time to correct those omissions after the plan has been initiated. Further, they ask that the plan be allowed to commence forthwith.

Crawford v. Board of Education, 17 C.3d 280, requires that the Board devise a plan and initiate a course of action to eliminate or alleviate segregation. The court's interpretation of this mandate requires a plan which, in its terms, is sufficiently specific so that the promise to achieve a goal of desegregation within a reasonable time can be determined by inspection of the terms of the plan itself. Patently, the plan does not comply with this standard because of the omissions of the specifics on how it is to be done and when it is to be finished. These omissions place the petitioner in the untenable position of having obtained a writ of mandate but not knowing the nature and the time of the relief. The proposed plan also places the court in the position of

having to supply the missing provisions if enforcement of any order approving the plan is required.

The court has determined, however, that these objections do not necessarily require that the plan be now rejected or that the court now assume the respondent's role in preparing a plan. The plan offers a structure which allows for major additions and modifications in accord with a timetable. The Board's broadly stated goal of complete integration is the same goal as is required by this court in the writ. The Board has taken an important initial step toward the eventual compliance with the writ of mandate by the filing of a plan for the desegregation of the middle grades which involves the vast majority of the white students within those grades either by means of the use of the definition of desegregated schools or by provision for inclusion within the league configurations. It is the court's order that it now approves the implementation by the Board of this plan, and secondly, that it will further examine the plan to

remedy those omissions in the manner as set forth below. The court finds that in spite of the insufficiencies of Plan II the Board has made a beginning in the long delayed journey toward its stated goal of full racial integration of the district and has commenced compliance with this court's mandate. By reason of the above, the court now denies each of the motions of the petitioners, intervenor Integration Project, and intervenor Loveland and Keipp without prejudice to renew if the respondent has not remedied these insufficiencies or has not, in the alternative, satisfactorily explained why the mandate does not require such remedies. The time for the Board to include within its plan the amendments and modifications is set for December 31, 1978.

The motion of intervenor BUSTOP is denied. The Board, as an adjunct to Exhibit 000 (Plan II), has filed the minutes of the Board's proceedings in the adoption of Plan II and appendices to the plan which included studies of the effect of this plan and of other plans on

resegregation of the district through white flight. The court at this time will not substitute its judgment in this matter for the judgment of the respondent. Resegregation, however, is a matter which should be examined by the expert witnesses when their reports are returned to this court and the witnesses examined by the court and the parties.

So that this court will be better informed of the sufficiency of any proposed amendments to the plan, the court will appoint on its own motion under Evidence Code, section 730, such experts on school integration and desegregation as it feels necessary. Such experts will examine the issues set forth below for the benefit of the court and the parties and present themselves and their reports to this court for examination respecting their conclusions.

The issues to be examined are:

(a) All amendments necessary for the plan to reach all the segregated minority schools either by inclusion in the physical desegregation plan or by some

other means to eliminate or alleviate the effects of segregation, Further, such experts shall form and give opinions as to the timetable for inclusion and the means to implement such amendments.

(b) The necessity of the plan to include improved voluntary provisions and, in the alternative, mandatory provisions for grades K through 3 and grades 9 through 12 or any of them. Further, the experts shall form an opinion and give a report thereon on the timetable for implementation and the means therefor.

(c) The necessity of the plan to have any additional provisions against resegregation by reason of white flight in the light of any proposed amendments to the plan.

(d) The rationality and application of the present definitions used by the School Board both in defining a segregated school and a currently integrated school and at the same time form and give their opinions on the various definitions and applications as proposed by

the petitioners, all intervenors and the amicus curiae, Caughey.

(e) The order of priority, if any, that each issue should be examined and reported on.

(f) The time necessary to report and develop each witness's opinion as to all such issues with the understanding that they and their reports will be examined by this court and the parties in sufficient time for the Board to act by December 31, 1978. Such estimated date should be furnished this court within three weeks of such appointment.

(g) Such further studies and opinion as to such issues which may seem necessary to this court to adequately inform it and the parties.

The court intends to commence hearings forthwith on the identity and number of and the charge to such witnesses, the means of reimbursement, the forms of reports and sources from which such opinions should be formed, located and used.

By this order the court is indicating it is only approving Plan II as an initial step toward eventual desegregation of this district. Until the court has examined the form of further proposed amendments to the plan and until the Board has been given an opportunity to act thereon by either implementing such amendments or including them in future plans with sufficient specificity to determine whether or not the Board can meet and intends to meet the mandate, any final approval of Plan II will be withheld and this court will, pending that approval, continue its jurisdiction in supervising compliance with the previously issued writ of mandate.

Dated: February 7, 1978.

/ss/EGLY
EGLY, Judge of the Superior Court

SUPERIOR COURT, MINUTE ORDER, DATED MAY 30, 1979
[41 C.T. 12151-12153]

Motion for continuance brought by the respondent, joined by intervenor Bustop, argued and heard on May 30. All parties being present, the Court now grants the motion for continuance, in part, by vacating the hearing date presently set subject to the following conditions: Because the present hearings concern amendments and changes to the existing plan under which the respondent Board is operating, and because the Court has previously heard and approved that plan, except as to its scope, but has not heard or listened to the amendments and the objections thereto, therefore in order to maintain the status quo pending the continued hearing, the Board shall not reduce its desegregation efforts under the present plan which it operates nor shall it add to said plan without a hearing having been noticed in this court and approval thereof obtained. This restriction shall include not only the Board's operation under the written plans but such

other actions such as capital improvements which will affect attendance boundaries and assignments, major personnel and management decisions which would affect desegregation and reductions or increases in the size, scope and intensity of any schools which are grouped or paired for desegregation, or changes in midsite school operations. Included, also, is any major change in increase or decrease of the PWT program. The enumberation of these is illustrative only and not to be considered as limitations, as it is the intent of this order to maintain the desegregation operations as nearly as possible without change pending the hearings. Further, pending this hearing, the Board shall make available to this court sufficient personnel and data for this court to create simulations of model plans for the three major viewpoints expressed by the parties in this case of what an integration plan for the district should be. The Court intends to simulate an all-volunteer plan, a triethnic plan and a simulation to test the possibility of an expansion to the present plan

and its propcsed amendments. Further, that simulation shall be designed to test the limitations which the Board says exists to prevent further expansion and lastly to determine the practicality of any further change in scope or intensity of the present plan. These simulations are necessary for the Court's own information, it having been not furnished by the parties.

In addition to the foregoing, the Court has been made aware through the statements made in the motions filed for continuance and the oral arguments of the parties of the possible redundancies, immaterialities and excessive expenditures of time which is probable in the previously scheduled hearings. The Court, therefore, is requiring a further pretrial hearing respecting the nature of the evidence to be produced by the parties. Therefore, it is ordered that prior to June 25, 1979, each party as a prerequisite to calling any witness, except for good cause, shall have filed with this court the names of the witnesses to be

called, the addresses where said witnesses will be available, and whether the witness is a percipient or participant witness, or whether the witness is an expert witness. Further, the statement shall contain in detail what the witness is expected to testify and on what issue the testimony will bear. If the witness is an expert, such statement will contain the opinion which the expert is going to state and the basis for that opinion. If the witness is a percipient witness or a participant witness or custodian of records, a detailed statement as to what facts that witness will testify to and on what issue. The date of June 25, 1979 at the hour of 10:00 A.M. is set for a further pretrial hearing for motions and rulings under Section 352 of the Evidence Code, or other appropriate sections, in order to prevent redundancy, immateriality, and waste of the Court's and parties' times. At this hearing, the Court should be in a position to set a realistic trial date and will do so.

DATED: May 30, 1979.

/ss/EGLY
PAUL EGLY, Judge of the
Superior Court

SUPERIOR COURT, APPLICATION FOR MODIFICATION OF ORDERS, DATED NOVEMBER 14, 1979
[45 C.T. 13312-13316]

Pursuant to Article 1, Section 7(a), as amended, of the California Constitution, respondent Los Angeles City Board of Education requests that this Court's orders of February 7, 1978, and May 30, 1979, be modified to eliminate those portions of the desegregation plan implemented pursuant to those orders which require the mandatory reassignment of pupils for the purposes of desegregation.

Article 1, Section 7(a) of the Constitution was amended by the enactment of Proposition 1 on November 6, 1979. That measure, which both the Senate and the Assembly had passed, and which received 69% of the vote count statewide and 74% in Los Angeles County, provides in part that

> "no court of this state may impose upon the State of California or any public entity, board, or official any obligation or responsibility with respect to the use of pupil school assignment or pupil transportation, (1) except to remedy a specific violation by such

party that would also constitute a violation of the Equal Protection Clause of the 14th Amendment to the United States Constitution, and (2) unless a federal court would be permitted under federal decisional law to impose that obligation or responsibility upon such party to remedy the specific violation of the Equal Protection Clause of the 14th Amendment of the United States Constitution.

"Except as may be precluded by the Constitution of the United States, every existing judgment, decree, writ, or other order of a court of this state, whenever rendered, which includes provisions regarding pupil school assignment or pupil transportation, or which requires a plan including any such provisions shall, upon application to a court having jurisdiction by any interested person, be modified to conform to the provisions of this subdivision as amended, as applied to the facts which exist at the time of such modification."

Article 18, Section 4 of the California Constitution provides:

"A proposed amendment or revision shall be submitted to the electors and if approved by a majority of votes thereon takes effect the day after the election unless the measure provides otherwise. . . "

Proposition 1, which does not "provide otherwise," became effective on November 7, 1979.

Because of the overwhelming legislative and public support which Proposition 1 received, the Board on November 8, 1979 voted 5-1 to seek to modify this Court's orders to conform to Proposition 1's terms.

We recognize that this application raises several issues which the parties and this Court must now address. These include:

1. The constitutionality of Proposition 1. (The Board does not raise this threshold issue, but petitioners have in the past indicated that they might do so.)

2. Whether this Court, applying the facts as they exist today, could properly determine that the Board had violated the Equal Protection Clause of the 14th Amendment to the United States Constitution and could, under federal decisional law, impose by reason of any such violation a remedy

involving mandatory pupil school assignment or transportation. This issue includes two subparts:

a. The nature and effect of Judge Gitelson's 1970 Findings of Fact and Conclusions of Law in this action.

b. What additional proceedings must occur before this Court can determine whether a violation of the Equal Protection Clause has occurred.

3. Whether the current remedy proceedings should be suspended or continued pending the resolution of the foregoing issues.

This list may not be exhaustive.

Briefly stated, the Board contends that Proposition 1 is constitutional, that the Board has committed no de jure violation of federal law, that Judge Gitelson's

findings do not support a conclusion of de jure violation, and, in all events, they are neither res judicata nor the law of this case, and that this Court must hold a hearing to determine whether a federal court, sitting today, would find a de jure violation and impose a remedy involving pupil school assignment or pupil transportation.

The Board requests that a briefing schedule be established with respect to the foregoing issues and any others which relate to the effect of Proposition 1 on this action. Since the Board is under an obligation under **Crawford** to implement a desegreation plan and since even a finding of systemwide de jure violations would require a remedy hearing and a consideraion of alternative plans, the Board proposes that the remedy proceedings continue while briefs on the foregoing issues are being prepared, until such time as, and if, they may need to be interrupted for a hearing on the issue of liability under federal law.

Dated: November 14, 1979.

Respectfully submitted,

McCUTCHEN, BLACK,
VERLEGER & SHEA
G. WILLIAM SHEA
PETER W. JAMES
DAVID T. PETERSON
MICHAEL M. JOHNSON
JUDD L. JORDAN

JERRY F. HALVERSON

By /ss/G. William Shea
G. William Shea
Attorneys for Respondent

SUPERIOR COURT, PETITIONERS' REPLY TO BOARD'S MEMORANDUM IN SUPPORT OF APPLICATION TO MODIFY MINUTE ORDERS AND TO BUSTOP'S OPENING BRIEF CONCERNING ARTICLE I, SECTION 7(a), OF THE CALIFORNIA CONSTITUTION AS RECENTLY AMENDED, DATED DECEMBER 13, 1979

[47 C.T. 13952-14068]

[Text omitted.]

SUPERIOR COURT, APPENDIX TO PETITIONERS' REPLY MEMORANDUM TO BOARD'S MEMORANDUM IN SUPPORT OF APPLICATION TO MODIFY MINUTE ORDERS AND TO BUSTOP'S OPENING BRIEF CONCERNING ARTICLE I, SECTION 7(a) OF THE CALIFORNIA CONSTITUTION AS RECENTLY AMENDED, DATED DECEMBER 18, 1979

Declaration of Fred Okrand
dated December 18, 1979
[47 C.T. 14073-14074]

The undersigned states:

I am one of the attorneys for petitioner in the within action.

Attached hereto as Exhibit "A" are copies of the newspaper articles examined by me and from which were taken the excerpts quoted in Point IV, of Petitioner's Reply Brief to Board's Opening Memorandum in Support of Application to Modify Orders and to Bustop's Opening Brief Concerning Article 1, Section 7(a) of the California Constitution as Recently Amended.

Attached hereto as Exhibit "B" is a copy of Senator Robbins' "Californians Against Forced Busing" letter and questionnaire referred to in Point IV of the accompanying brief.

Attached hereto as Exhibit "C" is a copy of SB1244, referred to in Point IV, of the accompanying brief, authored by Senator Alan Robbins (D-Van Nuys) and introduced by him in the California Senate on July 19, 1979.

Attached hereto as Exhibit "D" are the press releases issued on October 30, 1979, by Secretary of State [Eu] and Attorney General Deukmejian, referred to in Point IV of the said Petitioner's Reply Brief.

Attached hereto as Exhibit "E" are copies of the letters referred to in Point IV, of said brief that I wrote to each of the assemblypersons and senators of the California Legislature on January 11 and 16, 1979 respectively. The last paragraph of the letter to Senator Robbins had a slightly different wording.

Attached hereto as Exhibit "F" are newspaper clippings concerning the recall of Howard Miller from the Los Angeles Board of Education.

I declare under penalty of perjury that the foregoing is true and correct.

Executed at Los Angeles, California this 18th day of December, 1979.

/s/_____

Fred Okrand

EXCERPTS FROM CALIFORNIA NEWSPAPER ACCOUNTS

Proposition 1

47 Clk's. Tr. 14079; Siskiyou News, Jan. 11, 1979:

> Another measure to restrict the power of state courts to order schools to integrate has begun to move through the Legislature, and supporters think it will pass this time.
>
> The constitutional amendment, aimed primarily at overturning Los Angeles' mandatory busing program, was sent to the Senate floor Wednesday by the upper house's Education Committee.

47 Clk's Tr. 14081; Riverside Enterprise, Jan. 11, 1979:

> A twice defeated measure intended to overturn school integration programs in Los Angeles and some other California cities easily cleared a state Senate committee yesterday.

* * *

Robbins said the amendment could also affect San Diego, Stockton, Fresno and San Bernardino, which he said have either begun mandatory busing programs or may have to do so under state court orders.

47 Clk's Tr. 14100; Los Angeles Examiner, Jan. 11, 1979:

The battle by forces seeking to weaken or halt mandatory busing in Los Angeles moved forward on several fronts yesterday.

In a key victory, a proposal that would put the issue of limiting mandatory busing statewide before the voters this June easily cleared its first legislative hurdle.

On a 10-to-1 vote the state Senate Education Committee approved the measure by Sen. Alan Robbins, D-Van Nuys, and sent it to the Senate floor. Robbins has vowed to stop mandatory busing in Los Angeles by the end of the year.

* * *

Robbins yesterday confidently predicted that his measure would easily pass in the full Assembly.

"The politics of this whole issue changed when the metropolitan plan was announced," he said, referring to the proposed busing plan that would incorporate hundreds of Southern California school districts.

* * *

Robbins' measure is an attempt to overturn the Los Angeles busing plan.

47 Clk's. Tr. 14084; Jan. 11, 1979:

The Robbins amendment is aimed at ending the busing which began in Los Angeles last September after the California Supreme Court upheld a lower court ruling that Los Angeles school officials were intentionally segregating students.

Last November, the busing dispute in Los Angeles began to spread into surrounding counties with the release of a broader metropolitan plan proposed to the court which involved busing students from Orange County, as well as from Ventura, San Bernardino, and Riverside counties.

Opponents of busing from all those areas appeared before the Senate panel Wednesday, repeating again and again Robbins' plea to "stop the turmoil and help save education in the State of California."

* * *

Robbins told the panel that his amendment will give Los Angeles area parents "freedom of choice in deciding where their children should be taught."

47 Clk's. Tr. 14086; Santa Rosa Press Democrat, Jan. 11, 1979:

He [Robbins] believed if the measure were approved by voters, an eventual decision by the U.S. Supreme Court would end busing in Los Angeles schools.

47 Clk's. Tr. 14085; Watsonville Register Pajorian, Jan. 11, 1979:

Emotion-laced testimony on the measure included statements from nearly 30 foes of the Los Angeles busing program that began in September, including two Los Angeles school board members who said the program has been costly, disruptive and unsuccessful.

* * *

The measure passed the Senate twice last year but died in an Assembly committee. An attempt by Robbins to put the question on the ballot through the initiative process was unsuccessful.

47 Clk's. Tr. 14083; Vallejo Times-Herald, Jan. 11, 1979:

> On a 10-1 vote, the Senate Education Committee approved a constitutional amendment by Sen. Alan Robbins, D-Van Nuys, despite a plea from the panel's only black member to kill it.
>
> Sen. Diane Watson, the first black woman to serve in the upper house, said the measure was a "dangerous precedent" that could weaken the ability of California courts to strengthen civil liberties.
>
> "What we are doing is tampering with the independence of the judiciary and when you start doing that you start to endanger the effectiveness of the California Constitution," said Watson, the only committee member who voted no.

47 Clk's. Tr. 14079; Siskiyou News, Jan. 11, 1979:

> Senators have twice approved similar measures by the same author, Sen. Alan Robbins, D-Van Nuys, since 1977. But both died in the Assembly.
>
> This year supporters are relying on the fear of many Los Angeles-area residents that the Los Angeles plan will spread to nearby districts. They say this fear should give them the votes needed to get the amendment out of the Assembly Judiciary Committee.

* * *

47 Clk's. Tr. 14082; Long Beach Press Telegram, Jan. 11, 1979:

> ROBBINS SAID THE amendment could also affect San Diego, Stockton, Fresno and San Bernardino, which he said have either begun mandatory busing programs or may have to do so under state court orders.

47 Clk's. Tr. 14087; Richmond Independent, Jan. 14, 1979:

> Another measure to restrict the power of state courts to order schools to integrate has begun to move through the Legislature, and supporters think it will pass this time.
>
> The constitutional amendment, aimed primarily at overturning Los Angeles' mandatory busing program, was sent to the Senate floor Wednesday by the upper house's Education Committee.
>
> * * *
>
> This year, supporters are relying on the fear of many Los Angeles-area residents that the Los Angeles plan will spread to nearby districts. They say this fear should give them the votes needed to get the amendment out of the Assembly Judiciary Comittee, its stumbling block in past years.

47 Clk's. Tr. 14079:

> He [Sen. Robbins] said the measure would affect pending court cases involving schools in San Bernardino, San Diego, Stockton and Fresno but would not affect federal court ordered busing in San Francisco and Pasadena.

47 Clk's. Tr. 14091; Los Angeles Times, Jan. 18, 1979:

> A state constitutional amendment designed to overturn Los Angeles' court-ordered school integration plan — including some mandatory busing — was approved overwhelmingly by the state Senate today.

47 Clk's. Tr. 14075; Los Angeles Times, Jan. 18, 1979:

> Indeed, Robbins, a San Fernarndo Valley Democrat, is already looking beyond the Legislature to the voter approval that will be necessary to put his measure into effect.
>
> Rather than wait until June 1980, when the proposed amendment normally would

appear on the ballot, Robbins has introduced a bill for a special statewide election August 28, just before school opens next fall. Thus, Robbins says, he will prevent the current compulsory busing program in Los Angeles from going into the second school year.

* * *

The Committee has killed the Robbins' Amendment twice in the past, with [Assemblyman] Imbrecht among those who refused to vote for it. However, since the vote last year, the metropolitan plan has been proposed, and it is conceivable that its adoption could require the busing of students from Imbrecht's district to help integrate Los Angeles Schools.

The metropolitan plan he said, helped him decide that something about busing must be done. Robbins has contended all along

that the metropolitan plan has been his most important ally this year.

In any case, with Imbrect on his side, Robbins now counts seven votes on the 13 member Judiciary Committee, the number necessary to push his measure through.

47 Clk's. Tr. 14076; Torrance Daily Breeze, Jan. 18, 1979:

A constitutional amendment designed to overturn Los Angeles' court-ordered school integration plan was approved overwhelmingly by the state Senate today.

47 Clk's. Tr. 14077; Los Angeles Herald-Examiner, Jan. 19, 1979:

A proposal to scuttle Los Angeles' massive forced busing program has easily won State Senate approval but now goes to an Assembly committee where heavy opposition will try to block it.

47 Clk's. Tr. 14078; San Fernando Valley News, Jan. 19, 1979:

> In a lopsided 31-5 vote, the Senate Thursday passed and sent a proposed constitutional amendment limiting court-ordered busing to the Assembly where the measure is expected to face a tougher test.
>
> * * *
>
> SCA 2. Robbins has claimed would bring a halt to the Los Angeles plan as well as a recommendation to the state courts to expand that program throughout much of Southern California.

47 Clk's. Tr. 14089; Los Angeles Examiner, Jan. 18, 1979:

> Robbins addressed his opponents' arguments saying white Anglo kids should not have to pay penance for sins committed in another era.

47 Clk's. Tr. 14090; San Diego Evening Tribune, Jan. 18, 1979:

> Sen. Alan Robbins D-Van Nuys, said his measure, proposed for the June 1980 state ballot, would bring an end to the $110 million, Los Angeles city schools program that involved busing about 44,000 children.
>
> * * *
>
> The measure, Robbins said, would force a rehearing of the **Crawford** case that resulted in the state court order in Los Angeles, and forced busing would not be allowed unless intentional segregation by a government body could be proved, which conforms to the federal court mandate.
>
> * * *
>
> Robbins also said passage of his measure would head off the controversial metropolitan plan to expand busing into Ventura, Orange, and parts of San Bernardino

counties at a cost of about $1.1 billion a year.

47 Clk's. Tr. 14092; San Diego Daily Times Advocate, Jan. 19, 1979:

> SCA 2. Robbins has claimed, would halt the Los Angeles busing plan as well as a recommendation to the state courts to expand that program to much of Southern California.

47 Clk's. Tr. 14093; Bakersfield Californian, Jan. 19, 1979:

> A constitutional amendment designed to overturn Los Angeles' court-ordered school integration plan was approved overwhelmingly by the state Senate Thursday.

47 Clk's. Tr. 14094; San Jose News, Jan. 19, 1979,

47 Clk's Tr. 14095; Berkeley Daily Independent and Gazette, Jan. 19, 1979; 47 Clk's. Tr. 14097; Richmond Independent and Gazette, Jan. 19, 1979:

Twice in two years, measures to sharply curb the power of California judges to integrate schools have died in the committee, one without coming to a vote.

But this year the Legislature's more conservative makeup and the possibility that the Los Angeles integration progarm could spread to nearby districts have given busing foes greater hope.

* * *

The Senate set the stage for the showdown Thursday by approving a constitutional amendment by Robbins that would require state courts to use U.S. Supreme Court standards in deciding whether schools should integrate.

The 31-5 vote marked the third time since 1977 that the Senate had approved such a measure, aimed primarily at overturning Los Angeles' massive busing program.

47 Clk's. Tr. 14099; Valley News, Feb. 6, 1979:

> Also, Robbins has said that he believes the amendment will result in a halt to the Los Angeles plan as well as the proposed metropolitan plan.
>
> If the measure ultimately clears the Assembly, Robbins has another bill pending calling for a special election on the issue prior to the start of next school year.

47 Clk's. Tr. 14101; Los Angeles Times, Feb. 22, 1979:

> Legislation intended to block a second year of court-ordered busing in Los Angeles city schools was approved Wednesday by the Senate Elections and Reapportionment Committee on a 4-2 vote.
>
> The bill by Sen. Alan Robbins (D-Van Nuys) would order a statewide special election on a proposed anti-busing constitutional amendment to be held Aug. 28, one week before the new school year starts.

47 Clk's. Tr. 14102; Valley News, March 11, 1979:

A Senate-passed constitutional amendment that sponsors claim will bring a halt to busing in Los Angeles faces perhaps its most crucial legislative burden this week.

The Assembly Judiciary Committee which twice before killed similar proposals, will be considering Senate Constitutional Amendment 2 (SCA 2) along with several other busing-related measures Wednesday.

* * *

If Robbins is able to qualify SCA 2 this year by either initiative or legislative action, it would be before voters in June, 1980.

But the Valley lawmaker has legislation pending that calls for a special election Aug. 28. That bill has passed the Senate Elections and Reapportionment Committee

and will be heard in Finance Committee after the vote on SCA 2.

As for the proposed constitutional amendment, Robbins has said SCA 2 will — if approved by voters — halt the existing busing plan in Los Angeles as well as the so-called Metropolitan Plan.

47 Clk's Tr. 14103; Valley News, March 14, 1979:

Supporters of various pending legislation — all designed to halt busing in Los Angeles — held separate Capitol news conferences to back the different measures.

* * *

SCA 2. Robbins' bill, has gone the farthest in the Legislature after two defeats in the Judiciary Committee last season.

* * *

Robbins also has pending legislation which calls for a special election for his and

other measures for Aug. 28, and prior to the start of school next year.

47 Clk's. Tr. 14104; Los Angeles Times, March 15, 1979:

The legislative bandwagon for a proposed constitutional amendment to stop mandatory school busing in Los Angeles and elsewhere rolled over its opponents again Wednesday, this time clearing the Assembly Judiciary Committee on a 10-2 vote.

* * *

But while several members wondered whether this amendment would accomplish its goals, only the two blacks on the committee — Assemblywoman Maxine Waters (D-Los Angeles) and Assemblyman Willie I. Brown Jr. (D-San Francisco) — voted against it.

After expected Senate concurrence in Assembly amendments, the measure would be ready for the ballot and would normally go

before voters in June of 1980. However, Robbins is also sponsoring a bill to require a special election next August, just before school begins.

Robbins has said that voter approval then would prevent the Los Angeles busing program from going into another year. However, the special election would be costly which could generate strong opposition before the Legislature's fiscal committees.

Through it all, Robbins has contended that his success this year was largely the result of proposals that Los Angeles be desegregated by a busing program that involved surrounding school districts.

At the Wednesday hearing he once again produced scores of supporters from surrounding areas who said they were backing the Robbins proposal because of opposition to the metropolitan plan.

47 Clk's Tr. 14105; Los Angeles Examiner, March 15, 1979:

> In another Robbins bill Aug. 28 is set as a date for a special election on the proposed amendment.
>
> Should that fail but the current measure be passed, voters would get a chance to act on the anti-busing proposal on the June, 1980 ballot.

47 Clk's. Tr. 14108; Los Angeles Herald Examiner, March 22, 1979:

> Anti-busing forces disputing charges of racism scored a breakthrough yesterday when the Assembly for the first time approved a state constitutional amendment restricting mandatory busing for integration.
>
> * * *
>
> Support for the measure was bipartisan and came mostly from representatives of the same middle-class residential areas that

spawned the tax revolt and Proposition 13 last year.

Their target is a court-ordered busing program that started in Los Angeles last fall and that could be extended by a judge to outlying, largely white suburban areas because of the city's declining number of white students.

* * *

Legislative passage of the measure normally would qualify it for the next scheduled statewide election, in June 1980. But Robbins wants a special election on August 28 so that busing might be stopped this fall, and has a bill in the Senate Finance Committee next Monday calling for such an election.

* * *

Robbins says his measure would stop mandatory busing in Los Angeles by

restricting court-ordered busing to cases of deliberate segregation by school districts.

* * *

"Court-ordered busing . . . is perhaps the most socially destructive and indefensible government policy of our time," said the measure's floor sponsor, Assemblyman Bruce Young, D-Cerritos, whose district would be affected if the Los Angeles program were extended to the suburbs.

On the other side, black Assemblyman Elihu Harris, D-Berkeley, said: "The issue is not the bus, It's us . . . The level of racial hostility in this society is not an accident. It is caused by these kinds of measures."

White Assemblyman Lawrence Kapiloff, D-San Diego, said a publicly supported San Diego busing program might be stopped by Robbins measure, which he called "racist on

its face," adding, "If I have to vote for bigotry, I don't want to be here."

* * *

"Its basically American to be racist and it's more American to deny it," said Assemblyman Willie Brown, D-San Francisco, chairman of the Black Caucus.

47 Clk's. Tr. 14108; Los Angeles Times, March 30, 1979:

In an easy victory for busing foes, the Senate set the stage yesterday for a potentially bitter ballot campaign aimed at overturning Los Angeles court-ordered school integration program. The upper house gave final legislative approval to a proposed constitutional amendment that would sharply restrict the power of California judges to integrate schools.

* * *

The amendment would normally go on the ballot for the June 1980 primary election,

but Robbins has a bill that would schedule a special election Aug. 28 to try to avoid a second year of mandatory busing in Los Angeles. That measure is awaiting a vote in the Senate Finance Committee.

* * *

Yesterday's vote ended a two-year legislative battle by Robbins against the Los Angeles program. Twice in the last two years similar amendments he authored died in an Assembly committee.

47 Clk's. Tr. 14109; Valley News, March 31, 1979:

Odds are against getting a proposed amendment aimed at halting mandatory busing on a special August ballot, state Sen. Alan Robbins, D-Van Nuys, conceded Friday.

That would stymie plans of Los Angeles anti-busing activists, who plan to use passage of the proposed amendment as ammunition in

an attempt to halt mandatory busing in the city schools before classes begin next September.

A bill calling for a special August election, SB 217, is pending before the Senate Finance Committee Monday. However, the seventh vote Robbins considers necessary for committee approval apparently slipped away this week when state Sen. John Nejedly, R-Contra Costa, suffered a heart attack.

* * *

Robbins said Friday in his Van Nuys offices he is "willing to compromise" on a November special election. Then legislators would have until late June to write their own spending limit measure.

* * *

If a November election were called, then mandatory busing in Los Angeles could be stopped at the end of the fall semester

next year, in January 1980, Robbins said.

47 Clk's. Tr. 14110; Valley News, April 3, 1979:

> The Senate Finance Committee Monday narrowly approved legislation establishing a special election Aug. 28 for proposed constitutional amendments, including a measure limiting court-ordered busing in California.
>
> * * *
>
> Robbins has been pushing for the special election for his proposed constitutional amendment (SCA 2) that restricts state court judges to the more limited federal guidelines when ordering busing.
>
> The Valley lawmaker contends that SCA 2 if approved by voters will result in a halt to busing in Los Angeles as well as the so-called proposed metropolitan plan.

Lawmakers already have approved placing SCA 2 on the ballot for the next general election, which is in June of 1980.

* * *

Robbins said after Monday's vote that he believes the Legislature will in fact order a special election, but now the question is when. He said the special election bill may be amended to establish it in November instead of August if major opposition develops or if he runs out of time.

47 Clk's. Tr. 14111; Los Angeles Times, April 3, 1979:

The Senate Finance Committee Monday approved legislation calling for a special statewide election in August that would allow voters to express themselves on a proposed antibusing amendment to the state Constitution.

At this moment, it is virtually certain that the ballot also would carry "The Spirit

of 13," a proposed amendment that would place a limit on state and local government spending.

The election bill was introduced by Sen. Alan Robbins (D-Van Nuys), whose antibusing amendment cleared the Legislature Thursday. Under current law, the amendment would not go before voters until the next regular statewide election in June, 1980.

However, Robbins who has no doubts that the amendment will pass, contends that a special election Aug. 28 — one week before the start of school — will give busing opponents the legal tools they need to prevent the Los Angeles school busing program from entering its second year.

Thus, he said, the state and city school district will save at least $45 million in

busing costs, more than off-setting the $11.9 million cost of an election.

The Robbins bill was approved on a 7 to 5 vote and went to the Senate floor.

The biggest factor now is time. For legal and political reasons the bill must be enacted by April 19 to assure that the election will take place in August.

* * *

If the task proves impossible, Robbins said, he will amend the measure to place the special election in November, 1979, allowing a halt to the Los Angeles busing program in January, 1980.

According to Robbins, the deadline for enacting a November election bill would be June 28, which, he said, he is sure he can meet.

47 Clk's. Tr. 14114; Valley News, April 25, 1979:

OPPORTUNITY FADES FOR

AUGUST BUSING ELECTION

* * *

On the other hand, Robbins has claimed the sooner his amendment is voted on and approved by California the sooner busing can be brought to a halt in Los Angeles.

47 Clk's. Tr. 14115; Los Angeles Herald Examiner, May 4, 1979:

Robbins has a proposed constitutional amendment that would bar California judges from ordering schools to integrate unless they find evidence of intentional segregation.

The measure, aimed primarily at overturning the court-ordered integration program in Los Angeles, has qualified for the June 1980 ballot.

It would go on a special state wide ballot on November 6 if Robbins' bill becomes law. That bill, which supporters hope will end Los Angeles' program a semester early, is awaiting action in the Assembly.

47 Clk's. Tr. 14116; Los Angeles Times, May 4, 1979:

Robbins' bill would call a special statewide election Nov. 6 on a proposed constitutional amendment designed to stop the mandatory school busing program currently under way to Los Angeles.

47 Clk's. Tr. 14117; Los Angeles Times, May 12, 1979:

Gov. Brown disappointed school busing foes Friday by announcing that he will not call an Aug. 26 special election on the busing and government spending issues.

The busing foes had hoped that an election victory, one week before the opening of school, might allow them to stop

mandatory busing in Los Angeles from going into its second year.

However, said Gray Davis, Brown's executive secretary, "The Legislature is the best forum to determine the timing of this election."

At the moment, a bill is moving through the Legislature to hold the election Nov. 6. Davis declined to say what Brown will do if the measure should reach his desk.

At the election, voters would be presented with two major issues.

— A proposed amendment to the state Constitution designed to stop state courts from ordering busing in public school desegregation cases. Approved by the Legislature in March, it was carried by Sen. Alan Robbins (D-Van Nuys), who is also carrying the special election bill.

* * *

Normally, both measures would go before voters at the general election in June, 1980, but a legislative bill or gubernatorial proclamation could set a special election before then.

* * *

The Robbins amendment would require state courts to follow federal rules in desegregation cases. According to Robbins, the federal rules are more stringent concerning busing and the Los Angeles program would be stopped.

* * *

Robbins predicts that voters will overwhelmingly approve the amendment. A victory in August, he has said, would allow an immediate legal challenge of the Los Angeles program, thus preventing its beginning a second year.

47 Clk's. Tr. 14118; Los Angeles Times, June 19, 1979:

"This is the second symbolic means to separate the races in this state," declared black Assemblyman Willie I. Brown Jr. (D-San Francisco).

* * *

"The first, he said, is the proposed constitutional amendment," also authored by Robbins, that would appear on the Nov. 6 ballot and is designed to stop the mandatory busing program currently under way in Los Angeles.

* * *

Both the busing amendment and the Gann initiative were scheduled for the general election ballot in June, 1980. However, busing foes wanted an earlier election in hopes of stopping the Los Angeles program in the middle of next year.

* * *

The special-election bill was approved in the Senate April 27. Initially, Robbins had planned to follow the Assembly vote Monday by returning the measure to the Senate at once for concurrence in Assembly amendments. Thus the bill would have won final legislative approval and have gone to the governor.

47 Clk's. Tr. 14119; Los Angeles Herald Examiner, June 19, 1979:

The California Assembly approved a special statewide election Nov. 6 on anti-busing and government spending limit measures yesterday then heard a lecture from the Rev. Jesse Jackson on the evils of racism.

* * *

The constitutional amendment, which would ban court-ordered busing except in cases of deliberate segregation, is designed

to halt the busing program that started in the Los Angeles Unified School District last fall.

* * *

Robbins also predicted an end to busing in Los Angeles by January, though his measure could be delayed by a court challenge.

47 Clk's. Tr. 14120; Los Angeles Times, June 21, 1979:

California lawmakers sent Gov. Brown the controversial special election bill Wednesday, which he may sign to satisfy busing foes and conservatives or veto to satisfy many blacks and liberals.

The bill calls for a statewide election Nov. 6 to present voters two major measures.

— A proposed constitutional amendment designed to stop court-ordered busing for school desegregation in Los Angeles and elsewhere.

* * *

The bill was authored and assiduously pushed through the Legislature by Sen. Alan Robbins (DVan Nuys), who also authored the proposed antibusing amendment.

* * *

Robbins, confident that his antibusing amendmnt will be approved, said that a special election in November instead of June would allow an earlier start of a new legal battle against the Los Angeles program.

47 Clk's. Tr. 48121; Los Angeles Examiner, June 21, 1979:

That measure, SCA 2, already passed by the Legislature, is aimed primarily at overturning court-ordered busing in Los Angeles, where Robbins contends there is no intentional segregation.

* * *

Both proposals would appear on the June 1980 ballot without a special election, but SCA 2 supporters hope approval of their measure in November will avoid another semester of Los Angeles busing.

47 Clk's. Tr. 48123; Valley News, July 4, 1979:

The Van Nuys Democrat [State Sen. Alan Robbins] insisted that recent U.S. Supreme Court busing orders do not render his amendment meaningless, as some have claimed, but was not willing to unequivocally state it would halt busing in Los Angeles as he did early in the legislative campaign to qualify the measure for the ballot.

* * *

Robbins admitted no anti-busing ballot measure in the country had ever stood up in court or ever actually stopped busing, but said the Los Angeles situation is unique

because the desegregation order is based on the state rather than federal Constitution.

* * *

Robbins, however, insisted that the application of federal integration standards over state can still end the busing burden in Los Angeles, or at least reduce it.

47 Clk's Tr. 14126; Los Angeles Examiner, September 5, 1979:

Busing foes scored a last-minute victory last night when the Senate reversed itself and approved a bill aimed at throwing another roadblock in the way of Los Angeles school integration program.

* * *

The bill, SB 1244 by Sen. Alan Robbins, D-Van Nuys, would prevent a state court from shifting the burden of proof from pro-integration groups to the school district in a school integration case.

* * *

It is a companion measure to a constitutional amendment on the Nov. 6 special election ballot that would require a state court to find intentional segregation before ordering schools to desegregate.

The ballot measure also sponsored by Robbins is aimed primarily at overturning Los Angeles' year old court-ordered busing program.

47 Clk's. Tr. 48 14127; Valley News, September 1, 1979:

State Sen. Alan Robbins, D-Van Nuys, Friday released an opinion from a private law firm which concludes that his anti-busing stateconstitutional amendment would help stop mandatory busing of school children in Los Angeles.

* * *

The legal opinion concludes that the Robbins amendment would make "significant

changes" in the power of California courts to order mandatory busing and in the future of the Los Angeles desegregation case.

47 Clk's. Tr. 14129; Madera Tribune, Oct. 2, 1979:

The main committee supporting the anti-busing measure, Proposition 1, reported raising only $77,564 and spending $85,203, leaving it with a $7,639 deficit.

The measure, a constitutional amendment by state Sen. Alan Robbins D-Van Nuys, is aimed primarily at overturning Los Angeles' massive school integration program now in its second year.

47 Clk's Tr. 14130-132; Fresno, Modesto, Sacramento Bees Editorial, Oct. 14, 1979:

The amendment, sponsored by Sen. Alan Robbins of Van Nuys, is obviously designed to end busing for integration in Los Angeles.

* * *

> [A]ny vote to restrict the power to bus is at least an indication that society is giving up on the principle of integration, that the ideal is no longer worth the trouble, and that what began so hopefully more than 25 years ago with the **Brown** decision is now at an end. Proposition 1 does not replace one remedy with another, it offers no new strategy, no new hope, no promise. If it passes, it will simply be a declaration that, for the moment at least, it's all over.

47 Clk's. Tr. 14133-134; San Francisco Chronicle, Oct. 15, 1979:

> Prop. 1 was drafted to stop L.A.'s court-ordered busing by forbidding state judges in California from being any stricter in their integration orders than are federal judges.
>
> * * *
>
> Ironically, it was the threat of this "metropolitan" plan that led to Prop. 1.

Robbins had tried to get such a measure through the Legislature before and failed. He tried an initiative and also failed. But when legislators from surrounding districts saw that their constituents may be drawn into the plan the tide dramatically shifted and Robbins pushed his measure through the Legislature.

Moreover, he and Republican Lieutenant Governor Mike Curb successfully secured Governor Brown's approval for a statewide special election for November — instead of the regularly scheduled June, 1980 election — to speed up the vote on Prop. 1.

47 Clk's. Tr. 14135; Santa Rosa Press Democrat, Oct. 17, 1979:

Proposition 1 springs from the widespread discontent with the integration plan now in its second year in the Los Angeles Unified School District. While much

of the Los Angeles busing plan involve transportation of students over distances that are not uncommon in districts where there is no integration order, some students are being bused from the largely minority areas of south and central Los Angeles into the largely white San Fernando Valley.

And that busing is the driving force behind the supporters of Proposition 1.

47 Clk's. Tr. 14136; Los Angeles Herald Examiner, Oct. 1979:

Robbins said that despite what he perceives as strong support for Proposition 1, designed to end courtordered busing in Los Angeles city schools, he will have to scramble for donations if he is to present his case on television.

47 Clk's. Tr. 14138; San Diego Union, Oct. 24, 1979:

Robbins insists that approval of his measure will help stop the extensive court-

ordered integration program now under way in Los Angeles which includes busing school children between the mostly black south Los Angeles communities and the largely white San Fernando Valley. He said the proposition also would prevent the state courts from ordering an integration program that would involve the school districts surrounding the sprawling Los Angeles district.

47 Clk's. Tr. 14139; San Diego Evening Tribune Editorial, Oct. 25, 1979:

The measure is aimed frankly at upsetting court-ordered busing in Los Angeles, which includes Robbins' district.

* * *

Above all, approval of the proposition would stir doubts as to California's committment to equal educational opportunity in the public schools.

47 Clk's. Tr. 14146; El Cajon Californian, Oct. 26, 1979:

> Robbins authored the measure because he believed its passage would halt court-ordered busing in the Los Angeles school system.
>
> * * *
>
> Historically California voters have supported measures tainted by racial overtones such as the 1972 busing initiative which was declared unconstitutional.

47 Clk's. Tr. 14141; Oakland Inter-City Express, Oct. 30, 1979:

> S.F. BAR ASSOCIATION
>
> OPPOSES PROP. ONE
>
> Thomas F. Smegal, Jr., President of the Bar Association of San Francisco, announced recently that the Association's Board of directors had voted unanimously to oppose

Proposition One — the statewide anti-integration, antibussing initiative which will appear on the November 6th ballot.

Smegal stated that it was the opinion of the Bar's Board of Directors that this attempt to circumvent the court-ordered desegregation plan now in effect in Los Angeles is an unwise method of dealing with citizen opposition to such school desegregation rulings of the California courts, is primarily politically motivated, and would cost taxpayers thousands of dollars during subsequent court challenges.

47 Clk's. Tr. 14142; San Francisco Chronicle, Oct. 30, 1979:

In arch-conservative Orange County, some sample ballots were shown to potential voters. The ballot read Proposition 1 "School Assignment and Transportation of Pupils."

In stunning numbers, the voters didn't like what they saw. "Forced school busing," they said. "We're against that, we'll vote 'no'".

This is the story being spread with alarm by Senator Alan Robbins, D-Van Nuys, Proposition 1's author, who got the Legislature to call next Tuesday's special election to decide its fate.

Robbins says he is worried by the Orange County survey because Proposition 1 is supposed to be an anti-busing measure. Voters, he says, are confused by the wording on the ballot title and may think that a "yes" vote is for busing.

* * *

Robbins designed his proposition to stop busing in Los Angeles.

47 Clk's. Tr. 14144; Fresno Bee, Nov. 1, 1979:

"Forced busing not only doesn't work, its counterproductive," he [Sen. Robbins] said, employing the phrase "forced busing" again as he did throughout the news conference.

Isn't that a buzzword? he was asked. "Yes," he admitted. "That's why we use it."

In fact, he would have preferred the phrase to be the one on the ballot in place of "School Assignment and Transportation of Pupils." That, and the rest of the ballot statement, Robbins has complained, could confuse supporters of the anti-busing measure into voting against it.

At his request, Secretary of State March Fong Eu issued a statement Tuesday saying "a 'yes' vote on Prop. 1 is a vote against court-ordered busing of school children".

Even though the "clarification" cannot be on the ballot, it will help, said Robbins, who has been concerned not only about confusion but about voter apathy as well.

Attorney General George Deukmejian also issued a statement at his request, saying that "persons and groups which are against mandatory busing to achieve racial integration in the schools are generally in support of Prop. 1 and are asking for a 'yes' vote.["]

Robbins, who authored the proposition to stop busing in Los Angeles, warned that if the measure is defeated the cost of the program will be paid by taxpayers throughout the state, not only those in Los Angeles.

* * *

He said he is just as certain that it will be held constitutional and will become

effective by next September, in time to end the Los Angeles busing program.

47 Clk's. Tr. 14145; Santa Barbara News Press Commentary, Nov. 1, 1979:

> The anti-busing proposition originated in Los Angeles, where thousands of Anglo families had left inner-city neighborhoods largely to avoid close contact with minorities. Because the city's boundaries are so far-flung though they remained in the Los Angeles school district and their children are being dragged back into the inner city by court-ordered busing. In other cities with smaller boundaries, whites who left for the suburbs have had no such troubles.
>
> * * *
>
> But as in most issues, numbers will decide who wins. And Anglos make up the vast majority of California voters. They'll pass both the major propositions because

they believe it's the only way to prevent government from thwarting their wishes.

47 Clk's. Tr. 14146; Riverside Press, Nov. 5, 1979:

Prop. 1, sponsored principally by state Sen. Alan Robbins, D-Van Nuys, concerns largely the Los Angeles area.

* * *

White middle-class parents are expected to turn out heavily to vote for Prop. 1. Many, but not all, black leaders and activists are urging that it be voted down.

48 Clk's. Tr. 14147; San Jose Mercury, Nov. 7, 1979:

Robbins, who has battled to stop court-ordered busing now in its second year in Los Angeles, claimed victory in all of the state's 58 counties.

Miller Recall

48 Clk's. Tr. 14195; Valley News, Feb. 22, 1979:

San Fernando Valley anti-busing activists Wednesday filed petitions bearing 72,000 signatures to recall Los Angeles Board of Education president Howard Miller, but it appears more signatures will be necessary.

Recall leader Roberta Weintraub of Sherman Oaks said Miller should be ousted because he posed as an opponent of busing to get elected to the board and then turned around and backed the district's mandatory student integration program.

"He lied to deceive people on the issue of busing," she said as she filed the cartons of petitions at the city clerk's office at Los Angeles City Hall.

Mrs. Weintraub said she will run against Miller if the recall qualifies.

Miller later predicted the recall attempt would fail and accused Mrs. Weintraub of "wasting the taxpayers' time."

The school board president told reporters busing is mandated by the courts and is out of the board's hands. His earlier anti-busing statements were made before the integration court order "when the law of the land was not clear."

"I don't think a recall is called for against a public official who has just obeyed the law." Miller said.

48 Clk's Tr. 14192; Los Angeles Herald Examiner, March 21, 1979:

The petition campaign for recall of Miller succeeded in gathering the required number of valid signatures of registered voters, City Clerk Rex Layton announced late yesterday. His office stopped counting

when the necessary 65,923 signatures had been logged.

The City Council will be asked today to certify that the recall has qualifed for the ballot at the May 29 municipal election, Layton said.

Miller has been head of the board of the Los Angeles Unified School District for 21 months. The recall effort was based on Miller's support of court-ordered mandatory busing of students to achieve racial integration.

48 Clk's. Tr. 14192; Los Angeles Times, March 21, 1979:

MILLER WILL FACE RECALL ELECTION

BUSING FOES SUCCEED IN FORCING

MAY DECISION

* * *

Los Angeles school board President Howard Miller, who played a key role in bringing court-ordered desegregation to the

city schools, must face a recall election in May.

City Clerk Rex Layton announced Tuesday that a campgain led by antibusing activist Roberta Weintraub had succeeded in gathering the required number of valid signatures on recall petitioners.

* * *

Miller has been president of the board for the last 21 months, during which the school system embarked on court-ordered desegregation, and Miller in many ways has become a symbol of that effort. Mrs. Weintraub of Encino ran unsuccessfully for the school board two years ago on an antibusing platform and is expected to be Miller's leading challenger at the May 29 election.

* * *

48 Clk's Tr. 14192-3; Los Angeles Times, March 25, 1979:

> Miller was elected president of the board shortly after his election in 1977. He was reelected for a second consecutive one-year term as president last July, a rarity on the board.
>
> During this time, the board was confronted with court-ordered desegregation, and it fell to Miller as president to announce, explain or defend the board's response to the mandate.
>
> * * *
>
> In a Times article of April 4, 1976, Miller argued that busing would not work in Los Angeles. That, Miller said, was before the California Supreme Court ordered Los Angeles to desegregate.
>
> "Once that decision came down, my position was the court had ruled," Miller

said. "Under those circumstances, while we would all prefer to live in a city where busing was not required, the court had ruled, in effect, busing was required in Los Angeles."

* * *

Mrs. Weintraub also said Miller's recall would signal to the courts and legislators the depth of public feeling against busing and help the case against busing in those arenas.

"We have a situation where you have a ripple effect among politicians," she said. "Judges are not immune to ripple effects . . . I think the cumulative effect of recalling a person who has advocated a massive forced busing program . . . would have a tremendous impact. Everybody looks to the political winds. It's all of a sudden very popular to become a tax-cutter (and) very unpopular to become a pro-buser.

So, yes, Howard Miller's recall will definitely help stop busing."

Miller said he made clear during the campaign that he did not rule out the possibility of busing and that is why antibusing forces ran Daniel Danko against him. "I have always said that the law would have to be upheld and conflict avoided," even if that required some busing, he added.

48 Clk's. Tr. 14185; Los Angeles Times Editorial, May 13, 1979:

Clearing the main issue — the reason Miller is up for recall at all — is busing. Miller tried to obey the law when he led the board to adopt a limited busing plan that its majority hoped would work.

* * *

There is more at stake in this election than busing, however.

* * *

> Miller's opponents focus on one issue, they present a narrow outlook. They do not honor our city's diversity. Believing in tolerance and decency, Los Angeles can only vote NO on recalling Miller.

48 Clk's. Tr. 14180; Los Angeles Herald Examiner, Commentary by Los Angeles Board of Education member Bobbie Fiedler, May 25, 1979:

> The whole question of the recall boils down to a referendum on busing and integrity in government. A "yes" vote means that you want to stop busing and remove a deceitful politician from office. A "no" vote means that you want to continue forced busing and you believe in deceitful politics.

48 Clk's. Tr. 14174; Los Angeles Examiner, Editorial, May 27, 1979:

> On the ballot, you'll be asked whether Howard Miller, the president of the Los Angels Board of Education, should be

recalled from office. We say YES. The issue of busing now transcends the man. Los Angeles should make its will very sharply known.

48 Clk's. Tr. 14170; Los Angeles Times, May 30, 1979:

VOTERS OUST MILLER FROM SCHOOL BOARD

Roberta Weintraub, Recall Organizer, Wins Race for His Seat by Wide Margin

* * *

Mrs. Weintraub had insisted from the beginning that "the recall of Howard Miller is, everyone agrees, a referendum on forced busing," while Miller tried hard to argue that in voting for the present busing plan, he had simply obeyed the law, and should not be recalled for taking an unpopular stand.

48 Clk's. Tr. 14167; Los Angeles Times, Editorial, May 31, 1979:

> Yes, Tuesday's election that recalled Howard Miller was indeed a referendum on busing. In the process, the Los Angeles Board of Education lost its president, a decent man trying to do what he thought was right to obey the law.

BALLOT PAMPHLET DISTRIBUTED TO VOTERS FOR THE NOVEMBER 7, 1979 ELECTION
[48 C.T. 14266-14269]

SCHOOL ASSIGNMENT AND TRANSPORTATION OF PUPILS

Official Title and Summary Prepared by the Attorney General

SCHOOL ASSIGNMENT AND TRANSPORTATION OF PUPILS LEGISLATIVE CONSTITUTIONAL AMENDMENT. Amends Section 7(a) of Article I of the Constitution to provide that nothing in the California Constitution imposes upon the State of California or any public entity, board, or official any obligations or responsibilities which exceed those imposed by the United States Constitution with respect to the use of pupil school assignment or transportation. Provides for modification of existing judgments, decrees, writs or other court orders to conform to the provisions of this subdivision. Provides that governing boards of school districts may voluntarily continue or commence a school integration plan. Financial impact:

Indeterminable. Potential savings if school districts elect to reduce or eliminate pupil transportation or assignment programs as a result of this measure.

FINAL VOTE CAST BY LEGISLATURE ON SCA 2
(PROPOSITION 1)

Assembly—Ayes, 62	Senate—Ayes, 28
Noes, 17	Noes, 6

Analysis by Legislative Analyst

Background:

The U.S. Supreme Court has interpreted the U.S. Constitution to require public school desegregation only when the segregation was caused by government action with a discriminatory intent. The California Supreme Court has interpreted the State Constitution to require that public school segregation be alleviated regardless of what caused the segregation. Thus, the State Constitution now requires public school

desegregation in cases where the U.S. Constitution does not.

Currently, there are many California school districts which are providing pupil transportation and/or assigning pupils to schools outside of their immediate neighborhoods in order to alleviate segregation. Other school districts are currently involved in court actions concerning desegregation, and still others could become involved in court actions at some time in the future.

Some school districts have started desegregation plans because of federal court orders or because of agreements with the U.S. Office of Civil Rights. Other school districts are carrying out desegregation plans because of California court decisions. A third group of school districts is implementing desegregation plans on a voluntary basis.

Proposal:

This proposition would limit the power of California courts to require desegregation. Specifically, desegregation could be required only in cases where the U.S. Constitution would require it. As a result, the proposition could affect 13 school districts which now have desegregation plans ordered or approved by a California court plus other school districts that are involved or could become involved in desegregation actions before California courts.

This measure has four major provisions. First, it would require California courts to follow applicable federal court decisions when deciding if changes in pupil school assignment or pupil transportation are required to alleviate segregation. Consequently, if a California school district is found to have segregation for reasons other than government action with a discriminatory intent, the proposition would prohibit a California court from ordering the school district to

start a pupil school assignment or pupil transportation desegregation plan.

Second, the proposition would make past California court decisions requiring desegregation through changes in pupil school assignment or pupil transportation subject to court review using the same standards applicable to the federal courts. Any person could request a court to review its prior decision that resulted in a pupil school assignment or pupil transportation plan. The court would then have to reconsider its prior decision, and if necessary issue a new ruling based upon the California Constitution as amended by this proposition.

Third, the proposition would require California courts that are asked to review their prior decisions to give first priority to such a review relative to other civil cases.

Fourth, public schools would be allowed to continue current desegregation plans and start new desegregation plans on a voluntary basis.

Fiscal Effect:

The proposition would have an unknown fiscal effect. It would not require any school district to stop or reduce current busing programs. Thus, it would not necessarily affect school district costs. However, because review of current court-ordered busing programs, as permitted by the proposition, might result in some of these programs being modified to require less busing, the proposition could result in significant savings to the state and school districts. The savings would then occur, however, if school districts chose to eliminate or reduce their current busing programs based on new court decisions. Additional state and local costs would result from court review of existing court decisions, and these costs would offset some portion of any savings that might occur due to decreased busing.

Therefore, the net fiscal impact of this measure could range from a net increase in state and local

government costs (if no districts chose to reduce or eliminate pupil transportation programs) to significant net savings (if many districts reduce or eliminate these programs).

Text of Proposed Law

This amendment proposed by Senate Constitutional Amendment No. 2 (Statutes of 1979, Resolution Chapter 18) expressly amends an existing section of the Constitution; therefore, new provisions proposed to be inserted or added are printed in italic type [underscored herein] to indicate that they are new.

PROPOSED AMENDMENT TO
ARTICLE I

Subdivision (a) of Section 7 is amended to read:

(a) A person may not be deprived of life, liberty,

or property without due process of law or denied equal protection of the laws; provided, that nothing contained herein or elsewhere in this Constitution imposes upon the State of California or any public entity, board, or official any obligations or responsibilities which exceed those imposed by the Equal Protection Clause of the 14th Amendment to the United States Constitution with respect to the use of pupil school assignment or pupil transportation. In enforcing this subdivision or any other provision of this Constitution, no court of this state may impose upon the State of California or any public entity, board, or official any obligation or responsibility with respect to the use of pupil school assignment or pupil transportation, (1) except to remedy a specific violation by such party that would also constitute a violation of the Equal Protection Clause of the 14th Amendment to the United States Constitution, and (2) unless a federal court would be permitted under federal decisional law to impose that obligation or responsibility upon such

party to remedy the specific violation of the Equal Protection Clause of the 14th Amendment of the United States Constitution.

Except as may be precluded by the Constitution of the United States, every existing judgment, decree, writ, or other order of a court of this state, whenever rendered, which includes provisions regarding pupil school assignment or pupil transportation, or which requires a plan including any such provisions shall, upon application to a court having jurisdiction by any interested person, be modified to conform to the provisions of this subdivision as amended, as applied to the facts which exist at the time of such modification.

In all actions or proceedings arising under or seeking application of the amendments to this subdivision proposed by the Legislature at its 1979-80 Regular Session, all courts, wherein such actions or proceedings are or may hereafter be pending, shall give such actions or proceedings first precedence over all other civil actions therein.

Nothing herein shall prohibit the governing board of a school district from voluntarily continuing or commencing a school integration plan after the effective date of this subdivision as amended.

In amending this subdivision, the Legislature and people of the State of California find and declare that this amendment is necessary to serve compelling public interests, including those of making the most effective use of the limited financial resources now and prospectively available to support public education, maximizing the educational opportunities and protecting the health and safety of all public school pupils, enhancing the ability of parents to participate in the educational process, preserving harmony and tranquility in this state and its public schools, preventing the waste of scarce fuel resources, and protecting the environment.

Arguments in Favor of Proposition 1

CURRENTLY, THE CALIFORNIA CONSTITUTION CAN BE INTERPRETED TO REQUIRE COMPULSORY BUSING, INCLUDING METROPOLITAN COMPULSORY BUSING, IN CIRCUMSTANCES WHERE BUSING WOULD NOT BE REQUIRED BY THE CONSTITUTION OF THE UNITED STATES OF AMERICA.

THE INTENT AND PURPOSE OF MY AMENDMENT IS TO PROHIBIT ANY CALIFORNIA JUDGE FROM ORDERING MANDATORY BUSING UNLESS THE BUSING IS REQUIRED BY FEDERAL LAW. This amendment is based on the conclusion that forced busing is not a useful tool in achieving desegregration because its financial and education costs render it counterproductive.

COURT-ORDERED COMPULSORY BUSING HAS BECOME PART OF THE PROBLEM RATHER THAN PART OF THE SOLUTION. The racial tension and strife of compulsory busing is counter-productive to our goal of maximum racial harmony, and the furor

over compulsory busing stands in the way of community support for voluntary integration. By adopting this amendment, we will allow our courts and local school officials to turn to other more appropriate solutions.

ON TUESDAY, NOVEMBER 6, PLEASE JOIN ME IN DOING EVERYTHING THAT WE LEGALLY CAN TO HELP STOP COMPULSORY BUSING. PLEASE VOTE YES ON PROPOSITION 1.

ALAN ROBBINS
State Senator, 20th District

One of the great myths of our society is that blacks and other minority children can only receive an effective and equal education through the use of forced busing programs. This is simply not true. The use of forced busing hinders voluntary integration participation and other steps which could improve the quality of education available in our schools.

AS MAYOR TOM BRADLEY HAS SAID, "MOST PARENTS, WHATEVER THEIR COLOR, WHATEVER THEIR BACKGROUND, WHEREVER THEY LIVE,

DON'T WANT THEIR KIDS TRANSPORTED BACK AND FORTH ACROSS THE CITY."

Norman Cousins, the respected editor of Saturday Review and a strong supporter of integration, said a few years ago:

"The evidence is substantial that busing is leading away from integration and not toward it, that it has not significantly improved the quality of education accessible to blacks . . . that it has resulted in the exodus of white students to private schools inside the city or to public schools in the comparatively affluent suburbs beyond the economic means of blacks; and finally, that it has not contributed to racial harmony but has produced deep fissures within American society."

As a black parent and minister who cares about children, I urge you to help end forced busing in California by voting YES on the Robbins Amendment.

REV W. C. JACKSON
Pastor, Beth Ezel Baptist Church, Watts

As the plaintiff in **Serrano v. Priest,** I have worked to insure equal education opportunity for all California children. The excessive use of court-ordered forced busing will not guarantee this result.

FORCED BUSING TO ACHIEVE INTEGRATION IS A SHAM. TO FORCE A CHILD TO SPEND THREE HOURS ON A BUS AND FIVE HOURS IN A CLASS DOES NOTHING MORE THAN CHANGE THE COLOR BALANCE OF A FEW SCHOOLS FOR A FEW HOURS.

Children would be better off if we spent these dollars on teachers and buildings rather than wasting it on compulsory busing.

ON NOVEMBER 6, I WILL CAST MY VOTE IN FAVOR OF EQUAL, QUALITY EDUCATION—I WILL VOTE YES ON PROPOSITION 1.

JOHN SERRANO, JR.
Plaintiff, **Serrano v. Priest**

Rebuttal to Arguments in Favor of Proposition 1

1. Busing will NOT come to a halt if Proposition 1 is passed.
2. Proposition 1 will NOT prevent metropolitan integration.
3. Proposition 1 will NOT release money for classroom use in Los Angeles.

Proposition 1's proponents would have you believe that the issue is busing, that amending the California Constitution will stop so-called compulsory busing, and that busing cannot be required under the U.S. Constitution.

Proponents hold up the specter of metropolitan busing, implying that Proposition 1 would block such a plan in Los Angeles and other California metropolitan areas.

Just this year the U.S. Supreme Court approved sweeping compulsory desegregation plans in which federal courts required metropolitan busing. Thus,

federal standards may impose broader rather than narrower duties to desegregate.

Proponents complain of the excessive cost of busing under the existing Los Angeles integration order. But, in fact, under a metropolitan plan, busing would cost less and children would spend less time traveling to and from school than some children spend under the current plan.

Since 1954, selfish and shortsighted persons who were responsible for the building of schools and housing in communities throughout California have refused to plan and implement long-term solutions which could have effected integration WITHOUT busing.

Until thoughtful planning for school locations and metropolitan zoning and intelligent housing programs are implemented, busing is one of the only tools we have to provide equal education opportunity.

WE URGE YOU TO VOTE NO ON PROPOSITION 1.

DIANE E. WATSON
State Senator, 30th District

TERESA P. HUGHES
Member of the Assembly, 47th District

SUSAN F. RICE
President
League of Women Voters of California

Arguments printed on this page are the opinions of the authors and have not been checked for accuracy by any official agency

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Arguments Against Proposition 1

Contrary to the promises made by the Amendment's supporters, neither desegration in Los Angeles, nor the busing used as a tool to achieve it, would come to a halt with the passage of this measure.

In the Los Angeles school integration case, the trial court found—and the State Supreme Court agreed—that the segregation resulted from official acts of the school board. Even if the California

Constitution were to be amended to make the so-called Federal standard on desegregation apply in California, de jure (i.e.: intentional) segregation would still require a remedy not only in Los Angeles but in other school districts all over the state.

There is good reason to believe that Proposition 1 will ultimately be declared unconstitutional, since its very enactment could be interpreted to be de jure (intentional) segregation. The backers of Proposition 1 have made it clear in public statements that it is their intention in seeking this amendment to thwart the court's mandate to desegregate the schools in Los Angeles.

The right of every citizen to equal protection of the law, currently guaranteed by our strong California Constitution, is effectively diluted by Proposition 1. The Tenth Amendment to the U.S. Constitution expressly reserves to the States power to establish greater Constitutional protections for their citizens than those provided by the U.S. Constitution.

Proposition 1 drastically weakens the California Constitution's protection of minority students and their right to equal educational opportunity, consigning a generation of minority children to segregated inferior schools.

The campaign in favor of this amendment has played on fears and stirred up racial hostilities. If enacted, it will be a signal to all citizens of California that the state is on the side of prejudice, not equality. By making it possible to reopen cases in districts presently under California court order, the amendment would further generate disruption and turmoil where progress is being made toward desegregation.

Quality education should be available to all the students of our state; it cannot be achieved in a segregated setting. School districts should be encouraged and committed to making education a realistic experience, as we live in an integrated society. But passage of this amendment effectively

prevents our school system from preparing our children to function in the real world.

In short, the enactment of this proposition will not deliver what its proponents have promised: the blocking of court-ordered school desegregation in Los Angeles. It will make the state a party to discrimination; it will increase racial conflict; it will restrict educational opportunities for school children; it will touch off a series of costly court battles; and it will set a precedent of altering the California Constitution for political gain.

We urge voters to vote "NO" on Proposition 1.

DIANE E. WATSON
State Senator, 30th District

TERESA P. HUGHES
Member of the Assembly, 47th District

SUSAN F. RICE
President
League of Women Voters of California

Rebuttal to Argument Against Proposition 1

THE ROBBINS AMENDMENT HAS BEEN VERY CAREFULLY DRAFTED TO WITHSTAND ANY CONSTITUTIONAL CHALLENGE AND TO STOP COURT-ORDERED FORCED BUSING IN CALIFORNIA. That is what it is designed to do, and that is all it will do.

The opponents of Proposition 1 argue that it will cause segregation and reduce the quality of our schools. In fact, it will do just the opposite.

The Robbins Amendment will assure quality education for the children of California. IT WILL PUT MONEY WHERE IT IS NEEDED—INTO SCHOOLS, TEACHERS AND BOOKS—NOT INTO BUSES, GAS AND BUS DRIVERS.

Forced busing has not eased racial tension, it has not stopped discrimination, and it has not improved the

quality of education. It merely forces large numbers of children to take long daily bus rides.

THE SCOPE OF OUR AMENDMENT IS LIMITED TO THE PROBLEMS CAUSED BY COURT-ORDERED BUSING. It makes no attempt to interfere with the prerogatives of local school districts and does not diminish their obligation to provide minority students with equal educational opportunities.

By ending the use of court-ordered forced busing, unless such busing is required by the U.S. Constitution, Proposition 1 does everything the people of California may legally do to stop court-ordered forced busing in Los Angeles and in all other California school districts. That is one reason why the California P.T.A. has urged the adoption of this type of amendment.

When you vote on the 6th of November, please vote YES on Proposition 1, the Robbins Amendment, and help end forced busing in California.

ALAN ROBBINS
State Senator, 20th District

REV. W. C. JACKSON
Pastor, Beth Ezel Baptist Church, Watts

JOHN SERRANO, JR.
Plaintiff, **Serrano v. Priest**

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CALIFORNIA ATTORNEY GENERAL PRESS RELEASE DATED OCTOBER 30, 1979
[48 C.T. 14160]

DEPARTMENT OF JUSTICE
Office of the Attorney General
GEORGE "DUKE" DEUKMEJIAN
555 Capitol Mall, Suite 350
Sacramento, CA 95814

Contact: Tony Cimarusti
(213) 736-2298
Release: October 30, 1979

STATEMENT BY ATTY. GEN. GEORGE "DUKE" DEUKMEJIAN CONCERNING PROPOSITION 1

It has come to my attention that there may be some confusion over the meaning of the vote on Proposition 1 on the Nov. 6 ballot.

I would like to make this clarification:

The persons and groups which are against mandatory busing to achieve racial integration in the schools are generally in support of Proposition 1 and are asking for a "yes" vote.

The persons and organizations who favor busing to achieve racial integration in the schools are generally against Proposition 1, and are asking for a "no" vote.

The ballot title and summary which were developed by my office were designed to be impartial and to fairly summarize the proposition. While I am convinced that this aim was achieved, I am making this statement in an attempt to help voters avoid any confusion on this sensitive issue.

I urge voters to study their ballot pamphlets before they go to the polls on Nov. 6. For anyone who still is not sure, there will be ballot pamphlets available for review at each polling place.

Finally, I urge everyone who is registered to utilize their constitutional right and to vote on election day.

CALIFORNIA SECRETARY OF STATE PRESS RELEASE DATED OCTOBER 30, 1979
[48 C.T. 14161]

NEWS RELEASE
from: Secretary of State March Fong Eu
1230 J Street, Sacramento, CA 95814
(916) 445-6371

For Immediate Release

Contact: Caren Daniels

October 30, 1979

SECRETARY OF STATE MARCH FONG EU
CLARIFIES BALLOT MEASURE

SACRAMENTO — Secretary of State March Fong Eu today (October 30) urged all registered voters in California to study their ballot pamphlets and other official election materials before going to the polls next Tuesday, November 6.

"Such careful study is especially important in those counties which employ punch card voting system," Ms. Eu said, "because most of those counties will feature the shorter version of the official title and summary on their ballots."

Eighty-seven percent of the state's registered voters will see the shorter title and summary on their ballots.

Proponents of Prop. 1 have indicated to me that a reading of the shorter version of the ballot title and summary relating to Prop. 1 may confuse the voter," Ms. Eu said. "Lest there be doubt, the intent of the proponents of Prop.1 is to limit court-ordered busing of school children in California."

A "yes" vote on Prop. 1 is a vote against court-ordered busing of school children. The opponents of Prop. 1 argue in the ballot pamphlet that, among other things, "busing is one of the only tools we have to provide equal educational opportunity."

"Historically, there have been measures on the ballot which, should you vote 'yes' you are really voting against something, and should you vote 'no' you are voting in favor of something," Ms. Eu said. "This is the case with Prop. 1."

Ms. Eu explained that ballot pamphlets will be available in all polling locations and that the long version of the ballot measure title and summary is required to be posted in all polling booths in punch card counties which employ the short version on their official ballots.

COMMUNICATION FROM SENATOR ALAN ROBBINS
[48 C.T. 14150-14157]

Senator Alan Robbins

Californians Against Forced Busing

Dear Opponent of Forced Busing:

If you believe that forced busing of school children is a good idea, throw this letter away right now, it doesn't concern you.

This letter and questionnaire are for opponents of forced busing only. To reply to the enclosed questionnaire you must certify that you are an opponent of the force busing of school children.

If you oppose forced busing, as I do, then I need your help immediately.

Californians will be voting on November 6th in a statewide election on my constitutional amendment against the forced busing of our school children.

As the author of this constitutional amendment, I need your advice now on how best to conduct our campaign. I know that the social planners will spend millions of dollars to promote forced busing and defeat my amendment.

Our pro-busing opponents have been given a free hand by California's judges to implement their misguided social plans. Recent rulings say children may be bused across school district lines, even county lines, to achieve a racial balance! I think the courts have gone too far.

If my constitutional amendment is adopted by the voters this November, this nonsense will end. State judges will never again be able to use the California Constitution as their justification for the forced busing of our school children.

Why do I need your help now?

> Because there are so many arguments against the forced busing of school children that it is difficult to decide which issues to campaign on . . . which issues concern you most. That's why I am asking for your help now.

Enclosed you will find a Questionnaire asking for your opinion on how our campaign should be conducted against forced busing. Please complete the questionnaire and return it as soon as you finish my letter.

It is absolutely vital that we win this election. Our failure will mean that millions of California children age 5 on up will be forcibly bused to far away schools in strange neighborhoods. That's why I need your help so desperately now.

We must convince every California voter that forced busing is wrong — that it destroys the concept of the neighborhood school and makes our children the victims of judicial arrogance.

That is why I must have your views now, so we can plan our campaign to expose forced busing for what it

really is: a court-ordered social experiment using our children as guinea pigs.

There are many good arguments against forced busing, but I'd like your opinions, your input; what you really think . . .

*Should we use the high cost of busing as our main campaign issue?

—A forced busing plan (for metropolitan areas only) would cost a minimum of $352 per year, per household, in extra taxes its first year of operation alone! (And if you're single, widowed, retired or have grown children, you still have to pay the extra $352 "busing tax").

*Or should we use the added traffic danger as our main campaign issue?

—Many children will be walking to and from bus stops in the dark. This will drastically increase the number of children involved in traffic accidents. Further, school bus

accidents, always tragic, are bound to increase.

*What about the ever-present danger of violent crime?

—Children in strange, unfamiliar neighborhoods are much more prone to violence than they would be in their own neighborhood, close to the safety of their own home, family and friends. And there's always the danger of a child missing the bus, becoming terrified and getting lost — which again multiples the opportuity for some sick person to make your child a victim of violence.

*What about the quality of education?

—Because our school administrators will be more concerned about racial quotas, district lines and busing schedules, obviously the quality of education will suffer. And with busing will come "busing bureaucrats", more

government employees whose only job will be to bus our children.

*What about private schools?

—Most of us can't afford the $2,000 (or more) per child per year for a private school. So there's really no choice at all — our children would be bused, and we parents can't do anything about it.

*What about our children?

—Children can't study while riding on buses, so their school work is obviously going to suffer. If they are forced by the state to spend as much as three hours per day on the bus, they will have little time to spend with their families. Children riding on buses are not active in sports (or other after-school activities), so their physical health is seriously threatened. But obviously judges and the busing bureaucrats didn't consider the children.

*What about the increased fuel and gasoline these buses will use?

—Because of court-ordered busing, as much as 30 million gallons of gas will be wasted the first year alone, and that's only for six metropolitan counties!

Of course, there are many more arguments against forced busing. And we obviously can't tell our whole story on radio, or television or billboards or newspaper ads. We must select only those issues that concern you most — and frankly, I don't know which issues are the most important to you.

That is why I need your help. Please, right now, consider carefully the questions on your Questionnaire. Then mark your views.

Use only ink to record your replys. Then sign the declaration of opposition to forced busing.

Only the views of opponents to forced busing will be used.

Your reply will be used in determining what message we deliver to the people of California this November.

Finally, I need your help to get our message to the people of California. And to accomplish that goal we must use radio, television, newspapers and billboards. Every time our opponents advertise, we must have the money to counter their political rhetoric with the truth.

Our opponents will raise over a million. They will stop at nothing to win.

We cannot outspend them, but we desperately need to raise all the money we can as soon as we can to get our message across.

With these funds, and lots of hard work, we will win. But every concerned person must help or we will surely lose.

I am asking you to contribute $10.

Ten dollars is not much standing alone. But it will add up quickly if everyone who receives this letter

invests this small amount. I think you'll agree that $10 is a small investment when our children's lives are at stake.

Every single dollar will go directly into delivering your campaign message. On television. On radio. In newspapers, on billboards, in mail-outs and brochures.

So please mail your $10 today (or even as much as $20 or $50 if you possibly can) along with your Questionnaire and declaration of opposition to forced busing.

Sincerely,
/ss/Alan Robbins
Senator Alan Robbins,
Chairman, Californians
Against Forced Busing
Author, Anti-Forced Busing
Constitutional Amendment

P.S. I need your help now on how best to deliver our message against forced busing. So please, send your Questionnaire and $10 donation today in the enclosed postage-paid envelope. Remember, our children need our help to stop the pro-busing judges from interfering

with their education, an education the judges should be protecting, not destroying.

Californians Against Forced Busing,

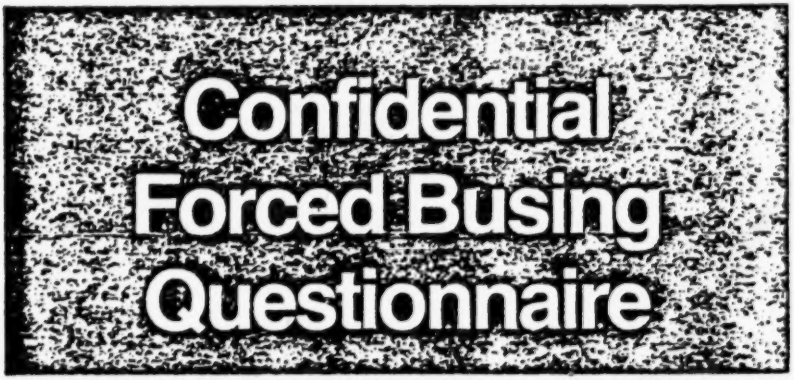
3375 Barham Blvd.,

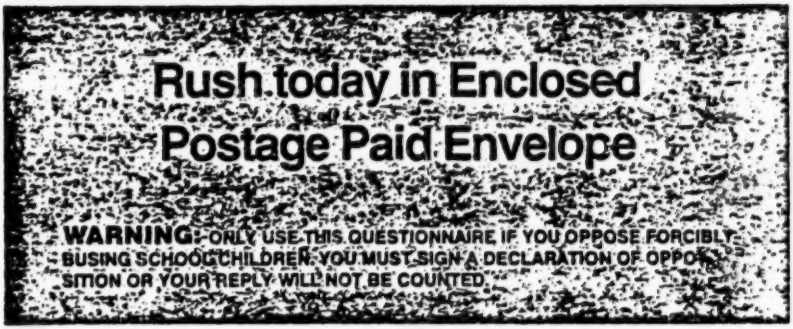
Los Angeles, CA 90068

ID #790813

Not printed or mailed at government expense

Use this booklet to help deliver your message against forcibly busing school children to the voters of California.





INSTRUCTIONS:

A. Carefully consider each question. Remember, you are advising your *Californians Against Forced Busing Committee* on how best to convince undecided voters to vote against forced busing.

B. Be sure to sign *DECLARATION OF OPPOSITION TO FORCED BUSING FORM*. Only *DECLARED OPPONENTS OF FORCED BUSING WILL HAVE THEIR REPLIES RECORDED.*

C. Place your questionnaire in enclosed envelope, mail today.

Begin questionnaire on next page →

1 Read each of the statements of fact about the forced busing of school children which appears below. Select that which you believe to be the very best statement to use in the campaign to persuade voters to your position to end state mandated busing. Fill-in the letter **A** for that best statement. Then select the second best statement and fill-in **B** for that statement. Continue in this manner until you have filled in **F** for the poorest statement.

STATEMENT 1: The forced busing of children to schools far away from their homes could result in an additional $352 per year in taxes for every family in California.

STATEMENT 2: School children walking to bus stops in darkness will cause an increase in traffic accidents involving school children.

STATEMENT 3: Children attending their nearest school in a neighborhood they know are less likely to face the dangers of getting lost or becoming the victim of violence.

STATEMENT 4: More time, effort and money will be spent by educators on forcibly BUSING students rather than in improving the quality of education.

STATEMENT 5: Families that can afford to spend $2000 per year per child will be able to avoid busing until private schools are filled; the rest of us will be without hope.

STATEMENT 6: Family life, an important part of youth development, will be seriously damaged if our children spend three hours a day on buses rather than at home with their family and friends.

	STATEMENT NO.					
	1	2	3	4	5	6
Answer Here ➨	☐	☐	☐	☐	☐	☐

2 Regardless of how you rated each of the above possible campaign statements, mark which media would best be used to deliver each statement of fact. Select one best media for each statement. You may select the same media for two or more statements, but only *one media per statement*.

	STATEMENT NO.					
	1	2	3	4	5	6
TELEVISION	☐	☐	☐	☐	☐	☐
RADIO	☐	☐	☐	☐	☐	☐
MAILOUTS	☐	☐	☐	☐	☐	☐
NEWSPAPER	☐	☐	☐	☐	☐	☐
BILLBOARD/SIGNS	☐	☐	☐	☐	☐	☐

3 If your campaign only raises enough money to use two of the available media to deliver your message, what two media do you believe should be used.
(Mark Two).

TELEVISION	RADIO	MAILOUTS	NEWSPAPER	BILLBOARD/SIGNS
☐	☐	☐	☐	☐

4 If you were trying to persuade one of your relatives, friends or neighbors to vote to end state mandated forced busing, which statement of fact (see Question 1) would you probably use?
(Mark One).

STATEMENT NO.					
1	2	3	4	5	6
☐	☐	☐	☐	☐	☐

5 Which voters do you believe it will be the most difficult to convince to oppose forced busing.
(Mark One).

Group A: ☐ Older citizens with no children or all their children out of school.
Group B: ☐ Young unmarried voters with no children.
Group C: ☐ Voters whose children already attend private school.
Group D: ☐ Married voters who do not plan to have children.
Group E: ☐ Parents with school are children.

6 When the campaign begins, what campaign materials would you use:
(Mark one or more).

☐ **A.** Small stickers for automobile.
☐ **B.** Printed brochures to hand out to friends, relatives and neighbors.
☐ **C.** Button to wear on lapel or vest.
☐ **D.** Postcards to mail to neighbors or friends.
☐ **E.** A small sign for home or office.
☐ **F.** All of above.
☐ **G.** None of above.

continued on next page →

7 How much will you give to convince undecided voters in California to oppose forced busing? Remember, we need some help from everyone to raise the minimum of $1 million needed to get your message out to these voters.

HOW MUCH HAVE YOU ENCLOSED?

☐ $20 ☐ $100 ☐ $10 ☐ $_____ EVEN MORE

☐ $50 ☐ $250 ☐ NOTHING AT ALL

MAKE CHECKS PAYABLE TO: CALIFORNIANS AGAINST FORCED BUSING

STATEMENT OF OPPOSITION TO FORCED BUSING

I (We) hereby declare opposition to forcibly busing school children, thus qualifying to help determine what anti-forced busing arguments should be emphasized in the upcoming election campaign.

MUST BE SIGNED FOR QUESTIONNAIRE TO BE TABULATED

Sign the validation form below and return it with your Confidential Busing Questionnaire in the enclosed postage paid envelope

_____

FIRST OPPONENT OF FORCED BUSING SIGN HERE

_____

SECOND OPPONENT OF FORCED BUSING SIGN HERE
must be signed to validate

NOT PRINTED OR MAILED AT GOVERNMENT EXPENSE
Californians Against Forced Busing, 3875 Barham Blvd., Los Angeles, CA 90068 ID #758013

LETTERS FROM FRED OKRAND DATED JANUARY 11 AND 16, 1979

[48 C.T. 14162-14163]

January 11, 1979

Hon.
State Capitol
Sacramento, California 95814

Re: Senate Constitutional Amendment No. 2, Assembly Constitutional Amendments Nos. 6 & 7; Assembly Bills No. 5 and 41.

Dear Senator:

I am one of the attorneys for the petitioners in Crawford vs. Board of Education of the City of Los Angeles, the Los Angeles school desegregation case now pending as No. 822854 in the Los Angeles Superior Court and the subject of the California Supreme Court's decision in Crawford v. Board of Education (1976) 17 Cal. 3d 280. I have examined the above named proposed bills and constitutional amendments. It is clear from a reading of them that those proposals are variously designed to maintain and perpetuate the segregation extant in so many of our California schools

and districts and to prohibit public agencies, including the Courts, from requiring correction of that denial of equal educational opportunity now visited upon the minority youngsters trapped in such schools.

I write to remind you of the fate of the similarly motivated "neutral on its face" Proposition 14 on the 1964 California ballot which prohibited public agencies from interfering with the right of a home owner to refuse to sell or rent his or her property to persons as he or she chose. That measure was struck down by both the California and United States Supreme Courts (64 Cal.2d 529, 387 US 369, [Mulkey v. Reitman and Reitman v. Mulkey respectively]) because it was clear that the State was putting its weight behind the private "right" to discriminate in housing. The proposals now before the legislature seek to do the same thing as to schooling.

It is clear that if any of the above mentioned proposals is enacted, it would be a de jure, intentional act of discrimination. It would be putting the weight

of the State behind segregation. Likewise, a vote by a legislator for such legislation would be a de jure, intentional act of discrimination; he or she would in like manner be attempting to put the weight of the State behind segregation. You may want to consider this fact should you be called upon to vote upon this or similar legislation.

Sincerely yours,

Fred Okrand

FO/yt

[48 C.T. 14164]

January 16, 1979

Hon.
Member of the Assembly
State Capitol
Sacramento, California 95814

Re: Senate Constitutional Amendment No. 2; Assembly Constitutional Amendments Nos. 6 & 7; Assembly Bills Nos. 5 and 41.

Dear:

[Text the same as the January 11, 1979, letter just set out.]

SENATE BILL NO. 1244, DATED JULY 19 1979
[48 C.T. 14158-14159]

AMENDED IN SENATE AUGUST 27, 1979
AMENDED IN SENATE AUGUST 20, 1979

SENATE BILL No. 1244

Introduced by Senator Robbins
(Coauthors: Senators Briggs, Campbell, Carpenter, Craven, Cusanovich, Alex Garcia, Russell, Schmitz, Speraw, and Wilson)
July 19, 1979

An act to add Section 523 to the Evidence Code, relating to burden of proof, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 1244, as amended, Robbins. Burden of proof.

Existing state law provides that a party has the ultimate burden of proof as to each fact the existence or nonexistence of which is essential to the claim that is being asserted. Existing law also specifies that a presumption is an assumption of fact that the law

requires to be made from another fact or group of facts found or otherwise established in the action; and creates presumptions affecting the burden of proof, although a presumption is not evidence. The effect of such a presumption is to impose upon the party against whom it operates the burden of proof as to the nonexistence of the presumed fact. Existing law also specifies that an inference is a deduction of fact that may logically and reasonably be drawn from another fact or group of facts found or otherwise established in the action.

This bill, in addition, would provide that the burden of proof, in specified actions concerning the use of pupil school assignment or pupil transportation in order to enforce any provision of the California Constitution, may not be shifted, ameliorated, or modified by any presumption, inference, or other rule of procedure.

The bill would take effect immediately as an urgency statute.

Vote: 2/3. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 523 is added to the Evidence Code, to read:

523. In any action or proceeding seeking or otherwise involving the imposition or continuation in effect upon the State of California or any public entity, board, or official of any obligation or responsibility with respect to the use of pupil school assignment or pupil transportation in order to enforce any provision of the California Constitution, the party or parties seeking the imposition or continuation in effect of any such obligation or responsibility has the burden of proof as to each fact the existence or nonexistence of which is necessary to the granting or continuation in effect of such relief, and no presumption, inference, or other rule or procedure shifting, ~~ameliorating~~ or modifying this burden of proof may be

imposed or applied at any stage of such action or proceeding. This section shall apply to all actions and proceedings pending as of January 31, 1980, or commenced after that date.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

If Senate Constitutional Amendment No. 2, chaptered as Resolution Chapter 18 of the Statutes of 1979, is approved by the voters, it can reasonably be anticipated that substantial and immediate litigation will result. Therefore, it is necessary that this act take effect immediately as an urgency statute.

SUPERIOR COURT, RESPONDENT'S MOTION TO STRIKE NEWSPAPER AND OTHER UNOFFICIAL REPORTS IN PETITIONERS' REPLY MEMORANDUM AND APPENDIX RE PROPOSITION 1, DATED JANUARY 21, 1980

[48 C.T. 14375-14376]

Respondent Board of Education of the City of Los Angeles ("the Board") hereby moves to strike the copies, quotations and references to newspaper and other unofficial reports contained in petitioners' reply memorandum and appendix regarding Proposition 1 on grounds that there is insufficient foundation, that such reports are multiple hearsay, that such reports are irrelevant, that copies of such reports are not the best evidence, that copies of certain reports in said appendix are illegible, incomplete and inaccurate and that the pages of said appendix are not numbered consecutively at the bottom, contrary to Rule 201(b) of the California Rules of Court, which makes specific reference to pages of said appendix unduly burdensome and oppressive.

Said motion is based upon this written motion, the attached memorandum of points and authorities in support thereof, and all pleadings and papers heretofore filed herein.

DATED: January 21, 1980.

McCUTCHEN, BLACK,
VERLEGER & SHEA
G. WILLIAM SHEA
PETER W. JAMES
DAVID T. PETERSON
MICHAEL M. JOHNSON
JUDD L. JORDAN

JERRY F. HALVERSON

/ss/Judd Jordan
By Judd L. Jordan
Attorneys for Respondent

SUPERIOR COURT, PETITIONERS' REPLY TO RESPONDENT'S MOTION TO STRIKE NEWSPAPER AND OTHER UNOFFICIAL REPORTS IN PETITIONERS' REPLY MEMORANDUM AND APPENDIX RE PROPOSITION 1, DATED APRIL 23, 1980

[55 C.T. 16484-16513]

[The text of this legal memorandum is omitted here.]

SUPERIOR COURT, MINUTE ORDER, DATED MAY 19, 1980

[This is set out as Appendix E to the Petition for Writ of Certiorari, pp. 76A-80A.]

SUPERIOR COURT, FINDINGS OF FACT AND CONCLUSIONS OF LAW RE MINUTE ORDER OF MAY 19, 1980, DATED JULY 7, 1980

[These are set out as Appendix F to the Petition for Writ of Certiorari, pp. 81A-93A.]

SUPERIOR COURT, OPINION, FINDINGS OF FACT AND CONCLUSIONS OF LAW AFTER HEARING RE: SUFFICIENCY OF THE RESPONSE BY RESPONDENT TO THE EXISTING WRIT OF MANDATE AND TO ORDERS IN AID THEREOF ISSUED PREVIOUSLY HERETO AND AFTER HEARING OF OTHER PARTIES' PROPOSAL FOR ALTERNATE FORMS OF REMEDIES, DATED JULY 7, 1980
[58 C.T. 17448 to 59 C.T. 17544]

From March 1977, this court has, in its duty of overseeing the Los Angeles Unified School District's response to the requirement that it desegregate its schools, restrained its activities to either granting or denying approval of the requests made by the respondent board concerning its desegregation activities. This restraint is compelled by what the court perceives as the law, [1] and by the sense of this

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[1] **Crawford v. Board of Education**, 17 C.3d 280, Cal.Rprt. 724, 551 P.2d 28 (1976)

Swann v. Charlotte Mecklenburg Board of Education (1971) 402 U.S. 1 [28 L.Ed.2d 554, 91 S.Ct. 1267]

court that the desegregation activities of the board involve immense efforts which affect large numbers of people in an important way and should be planned and implemented by the Board of Education which is the elected representative of those people. This political process should be a responsive instrument to produce mandated community change and, if followed in good faith and in pursuance to the mandate, should promise longer-lasting success than the imposition of a plan by an impatient, even though well-meaning, judge, who seeks a quicker and more efficient plan. [2] However, the test of the continuation of this restraint is the court's appraisal of the school board's commitment to the necessity of immediately instituting reasonable and feasible steps to alleviate school segregation and to produce meaningful progress in the elimination of segregated minority schools. [3]

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[2] **Crawford, supra,** 17 Cal.3d at 306 and **Swann, supra,** at 416

[3] **Crawford, supra,** at 307

In the nearly four years since the affirmation of this court's mandate, [4] it has heard in behalf of the respondent's case testimony on the prior plans [5] and, in the present hearings, results of the execution of one of its plans; read the reports of the court's referee, [6] the reports of the court-appointed monitoring committee; [7] examined and read the written evidence which includes the reports of the court-appointed experts; [8] received over 420 written exhibits, and conducted 170 days of hearings. That evidence, the arguments thereto, and the deliberations of this court, lead it to conclude that the respondent

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[4] June 28, 1976

[5] See section on Legal History

[6] See Minute Orders of July 5, 1977 and July 8, 1977, November 15, 1977 and November 18, 1977

[7] See Minute Orders of May 3, 1978, May 12, 1978 and Charge to the Monitoring Committee, May 24, 1978

[8] See Minute Orders of February 7, 1978 and February 22, 1978

board does not have a course of action which is designed to make meaningful progress in the elimination of harms arising out of minority segregated schools, and that the respondent board does not appear to have resolved itself to achieve any such plan in the near future.

This court, on February 7, 1978, approved conditionally the board's plan put into execution in September 1978. The manner in which the plan was executed carried the seeds of failure to achieve its limited goals. That execution was shaped by the inadequacies of the implementation process and by the board's reaction to political pressures and by the political responses of various segments of the school community. Based upon the record of that failure, the board, midway through the hearings of the modifications to that limited plan, requested this court that it be permitted to abandon all existing mandatory provisions of that plan, which in effect would require the abandonment of presently constituted and operated

pairs, clusters and midsites formed under those mandatory provisions; and lastly, that it be allowed to return the school district to a voluntary plan which would depend completely upon the voluntary compliance by parents and children of this district to a mandate of this court which was directed to the board.

The rationale advanced for this change was that all mandatory assignment of children for the purposes of desegregation is counterproductive of desegregation because it induces white non-participation and would reduce the district rapidly to an all-minority system. In tandem with this argument is the suggestion that mandatory assignment involves busing which is both unlawful and useless.

The phenomenon of white non-participation or "white flight" was examined with great particularity by this court in the hearings held between October 22, 1979, and April 11, 1980. White flight, as differentiated from normal demographic change, is an occurrence which is associated with mandatory

reassignment of children for the purpose of school desegregation. This phenomenon has been examined for 20 years by various experts on the desegregation experience in the United States and those results were made available in this court.

The court's conclusion is that the white withdrawal experience in Los Angeles and the anticipation of it are not bars to the adoption and drawing of a comprehensive desegregation plan which would desegregate many isolated minority schools, nor is it a bar to the use of mandatory reassignment of children for such purposes, but is one of many other important factors which must be carefully weighed and evaluated in the planning and implementation of a fair, practical and feasible plan of desegregation of the minority schools of this district.

The court finds that the respondent's proposed all-voluntary plan is not an adequate response to the mandate of this court because:

1. It is not designed to desegregate any of the minority schools of the Los Angeles Unified School District.
2. It treats minority children with less concern than other children in the district.
3. It relies entirely upon the voluntary compliance of the mandate by the children and their parents, which reliance is neither reasonable nor realistic.
4. Its provisions, viewed in light of the board's activities, do not demonstrate the board's commitment, even if given more time, to take additional steps to produce meaningful progress in the desegregation of the district's minority schools and the alleviation of the harms arising from segregation.

In view of the foregoing, the court intends to find that it has no other option available than to intervene actively in the supervision of the preparation and the implementation of a reasonably feasible desegregation plan so that it may be assured that the respondent district will afford equal protection to all of its students and thus meet its constitutional obligation to the minority children of its schools. These conclusions are compelled by examining the history of this case, the board's proposed voluntary plan, and other determinative factors set forth in the succeeding pages.

LEGAL HISTORY

This class action was originally brought on August 1, 1963, by black high school students against the Board of Education of the City of Los Angeles, seeking to desegregate Jordan High School where the petitioners were attending. The complaint alleged, in substance, that Jordan High School, with a student

enrollment over 99 percent black, was situated one and one-half miles from South Gate High School which had a student enrollment over 97 percent white. Petitioners also sought to enjoin the board from further expanding Jordan High School.

Subsequently, on July 6, 1966, the complaint was amended to include all segregated schools in the Los Angeles Unified School District and all black and Hispanic children attending those segregated schools.

For a period after the action was filed, the case remained relatively dormant while petitioners and the court attempted without success to get the board voluntarily to implement a desegregation plan for the district. Finally, the trial of the liability issues began in October, 1968, and continued intermittently for 65 court days, concluding in June, 1969. On May 12, 1970, the court issued its findings of fact and conclusions of law, judgment and peremptory writ of mandate commanding the respondent board to prepare and implement a reasonably feasible desegregation

plan for the Los Angeles Unified School District that would establish a racially nondiscriminatory unitary school system.

Underlying the mandate were the court's findings that the respondent board was operating a dual school system that was becoming increasingly segregated, and specific findings that the board, acting in bad faith, had failed to take any steps to attempt to alleviate the segregation, but had, instead, knowingly and affirmatively contributed to and perpetuated the segregation. These findings were based on a history of school board actions and inactions involving siting and construction of new schools, transportation and open transfer policies, feeder patterns, and mandatory school attendance areas and boundaries which created and perpetuated segregated schools. The court concluded that the conduct of the respondent board was systemwide and de jure in nature, in violation of the California and United States Constitutions.

The respondent board appealed the judgment, contending that the admittedly existing segregation was de facto in nature and not de jure, and the board therefore had no obligation to take any action towards desegregation of its schools. On March 10, 1975, the California Court of Appeal reversed the judgment which had been stayed pending the appeal.

On June 28, 1976, approximately thirteen years after the action had been filed, the California Supreme Court, in a unanimous opinion, affirmed the trial court judgment in all respects, save its definition of a "desegregated" school, and remanded the case for further proceedings consistent with the court's opinion. The Supreme Court specifically affirmed the finding of the trial court that segregation in the Los Angeles Unified School District was de jure in origin. **Crawford v. Board of Education** (1976) 17 Cal.3d 280.

Following remand from the Supreme Court, various individuals and groups sought to intervene for the purpose of participating in the remedial phase of

these proceedings. Initially, this court denied intervention by all prospective intervenors, but the Bustop intervenors sought and obtained a writ of mandate from the Court of Appeal directing this court to grant Bustop's petition for intervention. Upon receipt of the Court of Appeal mandate, this court entered orders granting leave to intervene to Bustop, Dreebin et al. and Integration Project, Better Education for Students Today (BEST), and Diane Watson, school board member, who was permitted to intervene individually. Intervenor Watson later withdrew and intervenors Loveland and Keipp substituted in her place. In the summer of 1979, pursuant to writ of mandate of the California Court of Appeal, United Teachers of Los Angeles (UTLA) was granted leave to intervene. In addition, amicus curiae status was granted to several individuals and the court has received numerous briefs and suggestions from amici.

On March 18, 1977, the board submitted its first desegregation plan for the district (Plan I). Hearings were commenced on March 23, 1977, to determine whether the plan complied with the requirement of **Crawford** and with this court's mandate. Following twelve weeks of hearings, the court rejected the board's first plan, concluding that the plan's part-time desegregation provisons would not desegregate any school in the district and would reach so few of the segregated minority schools as to be wholly ineffective in desegregating the district. (Minute Order, July 5, 1977.)

The court ordered the board to return within 90 days with "a plan or plans which realistically commence the desegregation of this district by no later than February, 1978 . . . and which plan or plans promise within their terms to complete such desegregation process within a reasonable period thereafter." (Id. at p. 10.) The July 5 Minute Order

carefully spelled out what would be necessary for the evaluation of the Board's plan:

> ". . . [T]he Board shall consider all reasonable alternative plans to the plan or plans which it shall finally submit to this court. . . . The plan or plans . . . shall be either accompanied or supported by detailed findings and conclusions, including all evidentiary data; summaries of the opinions of experts' studies, both staff and outside; all statistical information, all costs and benefit studies; all financial information; all educational benefits and detriments; and, any and all information developed either in support of its final plan or plans or used in evaluating the alternative plans." (Id. at pp. 11-12)

The board was also directed to present a cost and feasibility study with respect to desegregation of the district's minority schools falling within the 80-100 percent minority segregated range. (Id.)

On October 3, 1977, the board submitted its second desegregation plan titled "Integrated Educational Excellence Through Choice" (Plan II). Extensive pretrial activities ensued. The petitioners and intervenors Loveland and Keipp, and intervenor Integration Project filed objections to the new plan

and motions for an order declaring Plan II to be constitutionally insufficient. Intervenor Bustop argued that the plan should be rejected because it would increase the incidence of white flight and lead to resegregation. The board, on the other hand, moved the court for an order allowing immediate implementation of the plan, prior to a hearing on its merits. As part of the prehearing process, the board was required to answer written questions posed by the court, calling for the further elaboration of its new plan. (See "Respondent's Answers to Judge Egly's 22 Questions" filed November 29, 1977). Five days of hearings were held in the latter part of January, 1978, on the various motions of the parties.

On February 7, 1978, the court provisionally approved the implementation of Plan II as "an important initial step toward the eventual compliance with the writ of mandate." (Minute Order, February 7, 1978, p. 4.) The board's new plan patently did not comply with the court's interpretation of the mandate

requiring "a plan which, in its terms, is sufficiently specific so that the promise to achieve a goal of desegregation within a reasonable time can be determined by inspection of the terms of the plan itself." (Id., p. 4.) However, the court accepted the board's statement of its commitment, reasoning: "The plan offers a structure which allows for major additions and modifications in accord with a timetable. The board's broadly stated goal of complete integration is the same goal as is required by this court in the writ." (Id., at p. 4.)

The board was given until December 31, 1978, to add the necessary amendments and modifications to its plan. However, the court specifically withheld final approval of Plan II pending an examination of the anticipated amendments to the plan and until the board had been given an opportunity to act either by implementing such amendments or including them in future plans with sufficient specificity to determine whether the board had met or intended to meet the

mandate to desegregate its schools. (Id., at p. 7.) The February 7 Minute Order further provided for the appointment of experts to examine and report to the court with respect to the various issues raised by the court and the parties.

The period from February to August 1978 was occupied with the appointment of the court's experts, the establishment of a monitoring committee to monitor the district's desegregation efforts, and with the district's preparations for implementing its desegregation plan in September 1978. The district's preparation continued until August 31, 1978, when, pursuant to a writ of supersedeas issued by the California Court of Appeal, Plan II's implementation was stayed incident to an appeal by Bustop of an order of this court denying Bustop's motion to enjoin certain components of Plan II asserted to be in violation of the United States Constitution.

On September 5, 1978, one week before the start of school, the board joined Bustop's request that the

California Supreme Court stay implementation of the district's desegregation plan. However, petitioners and intervenors Loveland and Keipp, and Integration Project successfully petitioned that court to vacate the writ of supersedeas. Thereafter, Justice Rehnquist and Justice Powell of the United States Supreme Court refused to interfere.

On September 12, 1978, the Los Angeles Unified School District began the new school year under its desegregation plan, without violence or other major disruption.

On November 14, 1978, the expert witnesses appointed by the court rendered their written reports. These reports covered several areas including demography, definition, plan goals and standards, feasibility assessments, bilingual educational needs, the need for metropolitan planning and its feasibility.

In December 1978, with the deadline approaching for the filing of the modifications and amendments to its desegregation plan, the board requested additional

time to February 28, 1979, to respond to the February 7 Minute Order. The extension was granted in order to give the board sufficient time to study the experts' reports.

On March 12, 1979, after the expiration of the extension, the board filed its supplement to Plan II, "Response to Court Order of February 7, 1978." Thereafter the court convened a pretrial conference to determine how the parties would proceed with the trial to determine the sufficiency of the board's plan. A trial date was set for June 4, 1979.

In May 1979 the board requested a continuance of the trial date, contending that a June trial would have little or no effect on the September school year except to escalate community anxiety and uncertainty with respect to the second year of the plan's implementation.

The board further contended that it had been unable to complete discovery and would be severely

prejudiced and deprived of due process if forced to go to trial in June.

On May 30, 1979, the court granted the board's motion for continuance on condition that the status quo was maintained and that desegregation efforts under the present plan were neither reduced nor enlarged without approval of the court being first obtained. A new trial date for determination of the sufficiency of the board's plan was set for October 15, 1979.

On August 27, 1979, prior to the commencement of the 1979-80 school year and prior to any race and ethnic survey of enrollment, the board adopted a motion directing its legal counsel to seek the court's permission to abandon all mandatory portions of its desegregation plan and to substitute an all-voluntary plan. Based on this board action, intervenor Project Integration moved the court to declare the board recalcitrant, and to appoint a master to draw a desegregation plan for the district. The motion was

heard on October 10, 1979, and was denied by the court as being premature. On that date, however, the board's attorneys for the first time indicated to the court that the board did indeed intend to abandon its current plan and turn to an all-voluntary plan, if permitted by the court. The board again requested a continuance which the court granted and hearings were continued to October 22, 1979.

At the court's prodding, on October 17, 1979, the board filed its further proposed amendment to its current plan. This ten-page document, titled "Board's Response to the Court's Request of October 10, 1979," requested for the first time in writing the court's permission to withdraw all of the mandatory portions of Plan II, and to substitute an all-voluntary plan.

On October 22, 1979, the board requested another continuance of the hearings, which was denied. Finally, on that date, the hearings on the board's current plan and on its proposed all-voluntary plan began.

On November 16, 1979, almost four weeks into the hearings, the board submitted a supplement to its October 17, 1979 filing, titled "Integrated Educational Excellence Through Choice, Voluntary." On January 31, 1980, three and one-half months into the hearings, the board filed as part of its plan Exhibit #74, a three-page document entitled "Voluntary Desegregation Program, Guidelines for Implementation." This document presented for the first time the administrative procedures for implementing the major components described in the November 16, 1979 submission. The document had not yet been adopted by the board as part of its proposed plan.

In the November 6, 1979 general election, Proposition 1, the so-called Robbins Anti-Busing Bill, was approved by a majority of the voters of the State of California. Proposition 1 amends the equal protection clause of the California Constitution to require, in desegregation cases, that, among other things, any remedy imposed by a California state court

would not "exceed" the remedy required by federal courts, an attempt to require a "de jure" finding before providing a remedy. The Board, supported by intervenor Bustop, filed a motion seeking to apply the amendment to this case. In opposition to the motion, petitioners seek to have the amendment declared unconstitutional.

DESCRIPTION OF THE PARTIALLY APPROVED PLAN INSTITUTED SEPTEMBER 1978

At the commencement of the School Year 1978-79, the Board placed in execution a plan of desegregation for the relief of the isolation of minority students. The compulsory portion of the plan encompassed only grades 4 through 8, while the voluntary portion was open to all grades. The result has been the formation of 165 schools into pairs, clusters and midsites, and designation of another 54

schools as magnets.[1] This was accomplished by mandatory reassignment or the threat of reassignment. Most of the minority students as of this date remain in those programs, while many white children have withdrawn, mostly from San Fernando Valley schools, either by transferring to other schools within the Los Angeles Unified School District or by withdrawing entirely from the school system. All parties agree that the plan has not fulfilled its initial promise, but their reasons differ. Intervenor Bustop and the board have argued that the plan is a failure because of the excessive white withdrawal rate, while the intervenor Project Integration, and the petitioners fault it for not being extensive enough in its coverage of grades and schools. From any view, the plan suffers from the same deficiencies identified by this court on February 7, 1978, dealing with the failure of the

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[1] See Exhibits 1 and 2 for a graphic description of the composition of the pairs, clusters and midsite combinations now in operation.

district to adequately address the grades and schools not included by the board's plan.

Formal hearings were commenced on October 22, 1979, and evidence heard with regard to the board's modification pursuant to the February 1978 order respecting alternate plans and suggestions for orders respecting the role of the board. During these hearings and on November 16, 1978, the board filed a request wishing to withdraw from the court's consideration all provisions in its operational plan which required mandatory assignment of children for desegregation and requesting the abandonment of all existing pairs, clusters and midsites which were formed and which were kept together by reason of mandatory reassignment. The board, at the same time, asked the court to approve a new all-voluntary plan which would consist of an increase in the PWT program to 40,000 students, the expansion of the magnet program and the creation of "stably" integrated communities; and lastly, the continuance of

any pairs, clusters and midsites which wished to continue on a voluntary basis. A later filing further recognized that there would be large numbers of minority schools which would be untouched by any of the three voluntary provisions in the plan and proposed that a study be commenced to determine what further steps would be taken to alleviate the harms of racial isolation which have been and are being caused by the segregated condition of the Los Angeles Unified School District.

The board's articulated reason for the request that the court approve an all-voluntary integration plan is that mandatory reassignment of children for the purposes of desegregation is counterproductive to desegregation by reason of the stimulation of white flight. The intervenor, Bustop, joining the motion, argues that it is wrongful to mandatorily assign children for purposes of desegregation because it does violence to the neighborhood school concept, and that it is unlawful and not required under any case law

governing this action. But, because the board is not requesting a continuation of this plan and has requested modifications which essentially abandon most of the present plan, such request requires examination of only the all-voluntary plan and the reasons given for it.

REQUESTED MODIFICATIONS OF THE PREVIOUSLY FILED OR ALL-VOLUNTARY PLAN

These requested modifications which produce an all-voluntary plan are divided broadly into three major components which will be discussed separately as Component "A," Permits with Transportation; Component "B," Magnets; and Component "C," Complexes.

COMPONENT "A"

PERMITS WITH TRANSPORTATION (PWT)

The PWT program as envisioned in the board's voluntary plan is its major component. The PWT experience under various names reaches back a number of years in the district. While it has been described in various exhibits received in this case, it is, simply stated, an open option transfer program, wherein any student who desires to transfer from his home school to another school may do so under the condition that the transfer will enhance the racial and ethnic balance of either the sending school or the receiving school. While not unlimited, transportation is afforded to most students. Great efforts have been made by the district to encourage this program. When this case was first tried in 1977, the participation in the program was approximately 9,500 students. Leave was granted by this court in the summer of 1977 to expand the program to 20,000 students pending the adoption of a new plan by the board and the approval of that

plan.[1] Considerable expansion did occur. At the present writing, there are approximately 18,500 students participating from over 250 sending schools and 144 receiving schools. Of these students, 4,500 are elementary, 7,800 are junior high, and 6,200 are senior high students. Almost all of the students participating (99.9%) are minority students,[2] and most are black. The program is indeed a one-way busing program and is the heaviest user of busing in the present operational plan. Its cost in 1978-79 was $18,451,949, of which $14.5 million was for transportation. The board seeks to increase this PWT program to 40,000 students and hopes to recruit minority students who would not otherwise be in a desegregation

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[1] This approval was strenuously objected to by the petitioners on the grounds that the PWT program would be used to protect white students from any mandatory assignments for desegregation purpose. Hindsight suggests that this opposition proved well founded.

[2] Only 40 to 50 white children participate in the PWT program.

program by reason of the requested abandonment of the present mandatory pairs, clusters and midsites.

The burdens imposed upon minority children who choose to take part in the present program are prodigious. Their average bus ride is 55 minutes each way, which means that thousands of these children are subject to even longer times en route to school. The board now proposes shorter times by grouping sending and receiving schools. The willingness of the parents of minority children to accept this requirement is a fair measure of the efforts which the minority child and parent make to secure an education of a quality that they perceive is not afforded in their racially isolated neighborhood school, but is offered in a predominantly white school. The main advantage that the plan offers to the receiving school is that the receipt of PWT minority children in sufficient numbers will accord the receiving school a desegregated status, and thereby insulate all resident students in that school from any reassignment for purposes of

desegregaion. There are usually only disadvantages to the sending school and few advantages. The minority sending school remains segregated. There is no history of a reverse PWT influx into sending schools by white students. PWT in most instances by its very nature drains many bright and highly motivated children from their resident schools to the detriment of those schools. However, because it affords those children their only opportunity to obtain an education in a desegregated or predominantly white setting, there is an advantage to the minority children in the absence of other desegregation programs in the district.

It is the court's perception of the law that it is the duty of the school board to desegregate its minority schools, not just to provide integrated experiences to minority children. The minority child's PWT experience does not remove the stigma attached to the sending school or the stigma to the child of going from that sending school who understands that the school he would normally be assigned to would be an all-minority

school were it not for his own effort to leave that school. Further, it is often the case that the PWT minority child is accorded a second class status in the receiving school in that he is continually subject to the threat of having his attendance at that school discontinued for disciplinary reasons when that sanction would not be applied to the resident student. The PWT student, by his participation, is placed in a setting which is his not by right but by permission. The inequality of treatment of the minority child in that situation is clear. [3]

The inequitable treatment inherent in PWT programs as thus far applied in the district is a clear violation of the right of minority students to equal protection. It is especially true in the all-voluntary plan proposed by the district, where this form of PWT is relied upon as the major instrument of desegregation. The violation would also occur if PWT were

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[3] See Exhibit II-3 entitled "Response to Court's Order of February 7, 1978," at pps. 46-50.

permitted to thwart or to distort the desegregative effect of other programs by insulating students from assignment under those programs. However, when none of these conditions apply, PWT may represent the only option available for pupils who would not otherwise have access to what they perceive to be a better educational opportunity, and in that setting the program can be included as a residual component of a desegregation program.

COMPONENT "B"

MAGNETS

The magnet technique is used by many districts to promote voluntary desegregation. It is quite simple in concept. If a school can, because of its uniqueness, attract students of various races and ethnicities from segregated schools within its district, and if the resulting enrollment is controlled, the school that is produced should be desegregated. As a controlled tool, it can be effective for desegregation in certain circumstances. To be effective it is best applied in a district which is small-to-medium in size and has a staff with considerable skill in planning and implementation techniques. Still, if the sending schools are either all-white or all-minority, they will not be desegregated. They may be less segregated if there is an excess of either white or minority children in an already biracial or multiethnic school. The receiving school will desegregate only if the racial mix is properly controlled by enrollment and the excess

resident students are transferred elsewhere. These complications are added to by the requirement that space be found either by utilizing nonused space, evacuating space presently used, or building new structures.

The history of magnet programs as a desegregative device in Los Angeles is dismal. It is and was expensive and by reason of its very structure unable to affect more than a small percentage of minority children.

There are 29 elementary magnet programs in Los Angeles, of which ten enroll less than 30% white children. By even the most lenient of definitions, only 19 elementary programs in the entire district have achieved various forms of desegregation through the use of magnet schools.

Of the 19 schools in the junior high program, two are completely minority, one has a 2.5%, white participation, and one has 7.5% white participation; two others have white participation of less than 30%.

The remaining 12 schools are considered desegregated by the board.

The high school magnet program (which is the only desegregation program for high schools in the district) involves only two schools and 207 students.

Both the district and the experts who have reported and testified in this case question the use of magnet schools as a major program for desegregating the Los Angeles Unified School District. They are unanimous that it is unlikely that any minority segregated schools in Los Angeles will be desegregated by the use of magnets and that the use of magnets cannot desegregate the district.

Magnets, however, can be a useful auxiliary in special situations where special programs will have an appeal and should be offered, with the understanding that they are ancillary to any existing desegregation programs. They may also be used in alleviating the harm of racial and ethnic isolation. However, it must be noted that the initial magnet program's success, if

any there was, has been attributed to the threat of mandatory assignment in grades 4 through 8. Where the court finds there was minority student participation in the magnet school program, it was almost wholly black. The Hispanic participation in magnet schools was extremely low, leaving unaffected by magnet programs a group constituting 40% of the district's entire enrollment which proved unattracted by those magnets.

COMPONENT "C"

COMPLEXES

The third major component of the board's all-voluntary plan is the complex proposal, described more particularly in the submission of the board on November 16, 1979 (See Reporter's Transcripts Vols. 32, 34 and 37). The geographic boundaries of the complexes seek to define neighborhoods which the board claims to be "stably integrated." The plan would isolate students from those neighborhoods from

assignment or availability to any other desegregation program. The nucleus of the complexes and its basic indicator is a high school which encompasses to some degree, by its attendance boundaries, an integrated neighborhood which it is hoped identifies a stabilized community. By identifying those communities and relieving the schools in them from further outside desegregation process, the hope of the designer of the plan apparently is to promote and keep an integrated neighborhood by adding the school district's efforts to those which should be exerted by the city, state and other planning agencies. However, because the high school represents the feeder pattern of numerous grammar schools and junior high schools, many of which are segregated, the designer of the plan understands that the makeup of the high school only represents the composition of the high school's attendance boundaries without necessarily integrating the grammar schools and junior high schools. In order to accomplish the desegregation of those schools,

respondent assumes that the use of magnets and other voluntary programs will be available to the administrators of the complexes and, with the involvement of the community, the staff, parents and the board, an internal plan may be devised which will voluntarily integrate the schools within that area. That portion of the plan is somewhat vague as to exactly what means would be used but it does utilize some concepts deemed necessary by the experts who have reported or testified in this case. The total number of children encompassed in those complexes is 180,000, of whom 60% would be minority and 40% white. This would limit the applicability of this component of the plan to 35% of the students in the district.

The complex component is attractive because it reduces the size of desegregation units to more manageable areas; it uses community input to foster community acceptance and thus reduces white withdrawal; it seeks to stabilize areas which have potential for some permanency in their integration; it

is not as expensive as the other components because it cuts down the amount of transportation needed; and, lastly it recognizes the differences in the various communities within the Los Angeles Unified School District and allows adjustment for those differences. Its weakness is, of course, that it would use the same techniques in the desegregation of those complexes as are proposed by the board for the entire district; that is, voluntary compliance without either mandatory assignment or the threat of mandatory assignment to insure compliance.

The concept of complexes has been used in many large cities in which desegregation has been instituted. The court, however, has some doubt on the evidence presented that the complexes chosen here are truly identified communities; that this component as drawn can stabilize these communities; or whether many of these communities can be stabilized in view of the history of the changing demography of the district.

If magnets are the principal device to desegregate the schools within the complexes, then greater thought in planning and execution will have to go into the make-up of that interior plan. This has not been demonstrated in the November 16th submission, [4] and as a matter of fact such techniques within the complexes have been vaguely described only as "attractive educational programs." The hopes of the board's planner, that the complexes will automatically desegregate themselves, are in this court's opinion misplaced when compared to the history of the operation of magnet programs district-wide.

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[4] A supplemental filing was made by the Board of Education on January 31, 1980, three-and-a-half months after the commencement of the hearings, which for the first time set forth that the three programs (Magnet, PWT and Complexes) would be coordinated in such a manner and in a planned sequence to keep all three programs viable. The sequence of implementation placed first priority upon the formation of the complexes; secondly, upon district magnets, and lastly, on PWT.

WHITE FLIGHT

The main thrust of the board's argument advancing an all-voluntary program is that such a program will not produce white flight and thereby will cause the district to accelerate to an all minority district; corollary to this is the argument that any mandatory assignments for desegregation will cause large amounts of white student nonparticipation which would be destructive. To examine this argument it is necessary to examine the theory of white flight and its history and cause in the LAUSD.

White flight is usually described as the anticipatory or reactional withdrawal from the participating schools or grades by white parents and their children as a result of the threat or the imposition of any desegregation by any governmental body. Flight is not measured by the total loss of white children, but only the loss of those children due to avoidance of desegregation. The historical annual loss rate in the Los Angeles Unified School District of white children

is 5.8% (see Report of Reynolds Farley, Page 25). [1] The total loss of white children in the two years that this plan has been in operation has been approximately 25,000, or 13% over and above that demographic prediction. It has been especially heavy in the participating grades. The loss has been concentrated in schools in the San Fernando Valley. (For discussion of the factors involved, see Monitors Report No. 10.) White flight was anticipated in the order of February 7, 1978, but that excessive white flight occurred in September 1978 was due, in this court's opinion, to the failure by the board to execute its own plan within its own guidelines.

Because Plan II, as approved on February 7, 1978, provided that the pairs and clusters would be confined within definite geographical limits, described as Educational Leagues, an element of fairness could be maintained by the drawing of those educational

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[1] Exhibit II-354 and II-355.

leagues in such a way that each school would have approximately the same types of choices and burdens. However, the board's execution, with its emphasis upon voluntary compliance, caused the league concept to be abandoned early and even while it was being approved by this court. The abandonment of the leagues allowed a disorderly rush in which each school sought to obtain an advantage over other schools. The result was that the pairings which imposed small burdens upon the early participants left the difficult choices to the late participants, causing the remaining pairings to become extremely burdensome and giving an element of favoritism and unfairness to the entire plan. It is the court's opinion that the administration of this plan in that manner led as much to the dissatisfaction of the white community with the board's desegregation plan as any other single factor. It pitted school against school without an articulated reason, and violated the first rule of any acceptable plan that it be fair and require that if there are burdens that they be assumed

as equally as possible by all participants. An examination of the two exhibits (#1 and #2 attached hereto), showing the pairs, clusters and midsites in cartographic form leads this court to the conclusion that the rate of white nonparticipation was exacerbated by the unequal treatment of the parents and children and the administration of the plan. [2]

The above is not intended to suggest that white flight would be absent if the administration or the

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[2] Upon receipt through the referee's office of a letter from Dr. Gary Orfield that the above described execution of the plan would be a cause of coming disaster, an attempt was made by both the board and staff, and with the tacit approval of the court, to establish midway locations so that neither of the participants of some pairs would travel the entire distance to their paired school, but could meet at a halfway point. These locations, called midsites, exhibited the greatest white flight rate of all types of desegregation devices. In hindsight it is the opinion of this court that, this having been an extemporaneous and late plan, that many parents were given the perception that such temporizing indicated that the plan was failing, that the staff was incompetent and that there was no way that desegregation pursued in that manner could succeed. This violated the necessity that any plan should promise security and stability. (See Exhibit II-526, "Inequities in Pairs and Clusters: A Report by Gary Orfield," June 30, 1978.)

implementation of the plan had been handled differently. Every expert in this case has testified that white flight is to be anticipated with every mandatory desegregation order, but that its rate and duration depends upon identifiable factors, some of which can be controlled by the school district. Moreover, the white flight rate usually declines within a relatively short time after imposition of a plan. It is the court's conclusion that the white flight rate can be minimized by a recognition of these functions and a conscious attempt to control these factors.

In measuring white flight it should be noted that it is not clear that the numbers used by any of the experts in this case truly reflect the actual white withdrawal from the school system. The figures used in this case by the board's witnesses to measure white flight were the figures of nonparticipation in the cohort group within the affected grades. This testimony did not report the number of cohort students still in the system and the court doubts the accuracy

of the evidence which indicates that there were only 1,335 students on permit transfers from the affected grades and affected schools. To the extent that the actual non-participation of white children in the affected grades and schools is overstated, it is unknown and apparently undeterminable without the existence of a centralized student file (which is often referred to in this case as a "kid file") which has never been established in this district. [3] [4]

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[3] On May 1, 1980 and while the Intended Order was being written the court's Monitoring Committee issued its 15th report which seemed to indicate that the 1,335 figure should be increased substantially. The apparent discrepancy is probably explained by the unspoken and unasked for qualification inherent in the question asked of the board's witness.

[4] Apparently the individual student's file is maintained at the last school attended and not at any central location.

CONCLUSIONS AS TO THE BOARD'S PROPOSED ALL-VOLUNTARY PLAN

The inadequacy of the proposed components of the board's all-voluntary plan leads to the conclusions that this plan was hastily conceived during the course of the hearings, not thoroughly planned, and presented with the full realization by the board that of all the possible approaches to desegregation the voluntary plan would have the least success in desegregating the minority segregated schools; and that such an approach can only be rationalized by the absence of white flight from voluntary measures and the assertion that mandatory assignment is not justified by the facts or compelled by law.

The facts, however, divorced from the manner of administration and the degree of haste, upon which the requested modification to the plan rests, do not, even in the best of conditions lead to the promise of substantial or sufficient desegregation of the district.

GEOGRAPHICAL DESCRIPTION

In looking for reasonable and feasible approaches to desegregation of the LAUSD, the first consideration is its geography, which imposes limitations and requirements upon any planner. In area, it is the largest public school district in the United States. It has 710 square miles and includes within its boundaries the cities of Los Angeles, Cudahy, Gardena, Huntington Park, Lomita, Maywood, Vernon and San Fernando, and portions of 18 other cities and unincorporated areas in Los Angeles County. Its size is such that the entire school districts of Dayton, Denver, Pittsburgh, Cleveland, San Francisco and Boston would all fit within the district's boundaries, with space left over. (See Exhibit #57 and introduction to the board's March 1978 submission.) The distance from the southern part of the district to the northwestern boundary of Chatsworth is 58 miles and from the west to the eastern boundary more than 30 miles. It is bifurcated by the Santa Monica Mountain range which runs east

and west and which separates the suburban San Fernando Valley from the more central areas of Los Angeles. The white children who reside north of the mountains and in the San Fernando Valley comprise approximately 70% of all the white students in the district and approximately one-third of the total school census. From the central area into San Fernando Valley and return, there are three major freeway routes, all of which are used by the Los Angeles Unified School District buses almost exclusively over other routes. This insures that all travel times calculated between the locations in the two major areas assume freeway use to cover what in most cities would be regarded as great distances. This fact and the spatial distribution in the district of the various races and ethnic groups lead an observer to believe that there is relatively little natural connection between the two areas except for whatever communality is created by a common school board operating within far-flung but governmentally

recognized boundaries. As is evident from Exhibit 4 the boundaries are extremely irregular and not determined by geographic barriers. Nevertheless, this district and its history of segregation, as well as the prognosis for desegregation, can fairly be described as being partly the prisoner of the district's geography.

DEMOGRAPHY

Substantial and persistent differences exist among the various racial and ethnic groups residing in the Los Angeles area. Broadly defined, there are four large and easily defined groups: blacks, Hispanics, whites, and Asians. There are many smaller groups that also have strong traditions and senses of cultural identity. For school desegregation planning, the most important differences among groups concern their social and economic status, growth rates, and residential distributions.

Blacks and Hispanics in the Los Angeles area complete fewer years of schooling and work at less

prestigious and remunerative jobs, on the average, than do whites or Asians. The latest available statistics (for 1977) indicate that Asians are the most extensively educated, achieving, on the average, almost two years of college. Whites average about one year of education less than Asians, while blacks average about 1.4 years less than whites. The Hispanic population averages 9.2 years of schooling, or about three and one-half years less than whites and four years less than Asians.

The most recent available economic statistics (1976) report an average income of white families in the Los Angeles area of just under $16,000. Asian families received an income about $100 less than that of whites. The average income of Hispanic families was about $11,000, while black families had an average income of $9,800. Blacks were also reported to suffer the highest rate of unemployment among the four groups.

Turning to population trends, following World War II the black population of Los Angeles began to grow more rapidly than the white, rising from 5 percent in 1950 to an estimated 10 percent in 1977. Blacks have traditionally heavily concentrated in the central city; by 1977, blacks made up 18 percent of the city's population but only 6 percent of the suburban population.

The Hispanic and Asian populations began to increase more rapidly than those of both blacks and whites during the 1960's. The Hispanic population in 1950 made up 7 percent of the total population of Los Angeles and Orange Counties; by 1970 it had almost doubled to 12 percent, an increase from 305,000 to over one million. The Asian population rose from about 43,000 in 1950 to over a quarter of a million in 1970 increasing at a rate of 8 percent each year during the 1960's. Because of the rapid increase in the growth of minority populations, the white proportion in

the area fell from 87 percent to 75 percent during that decade in this two-county area.

General population growth in the Los Angeles area slowed markedly during the 1970's, particularly in the central city. But circumstances differed sharply between racial/ethnic groups. In all areas of the city, the white population declined while the Asian and Hispanic populations increased briskly and the black population grew at a slower rate. As a result, the city's white population dropped from 60 percent in 1970 to 50 percent in 1977. It is expected that the 1980 census will record that white residents of the city of Los Angeles are in a minority and that Hispanics, blacks, Asians, and other racial and ethnic groups together form a majority.

A high degree of residential segregation exists in the Los Angeles area but the extent of concentration varies by group. Asians and other smaller minority populations are widely dispersed throughout the city

and suburban ring, although they have some recognizable points of concentration. There is a large concentration of approximately one-quarter million Hispanic residents in East Los Angeles, which is the most highly segregated segment of the Hispanic population. However, East Los Angeles Hispanics represent no more than one-fifth of the area's total Hispanic population.

Blacks are residentially segregated to a much higher degree than are other minorities. The black population is heavily concentrated within South Central Los Angeles and the contiguous suburbs of Inglewood, Compton and Lynwood. Approximately 75-80% of all blacks in the metropolitan area, totalling more than half a million, live in those locations. Black families who live outside this area tend to live in smaller areas of black concentration in such places as Long Beach, Santa Ana, Pasadena, and Altadena.

The patterns of growth and distribution of the district's school population parallel general patterns of

population growth and distribution. Enrollment trends differ substantially by race and ethnicity. White enrollments have fallen in recent years while Hispanic and Asian enrollments have risen sharply, and black enrollment has been declining. The district has now moved from a predominantly white enrollment to a heavily minority enrollment.

In 1966, the district conducted the first racial and ethnic survey of its schools. According to that survey, the total pupil enrollment was 627,219, of which 351,817 students (56.1%) were white, 133,976 (21.4%) were black, 116,531 (18.6%) were Hispanic, and 24,134 (3.9%) were Asian.

The total school enrollment in the district increased until 1969 and has fallen since then, reflecting the trends in declining birthrates and out-migration from the city. In the fall of 1969, the district's total enrollment had risen to 650,324; ten years later it was only 83 percent as great.

In 1968, the year that this case first came to trial, the white student population had declined from 351,817 in 1966 to 347,967. The proportion of the whites in the district had fallen from 56.1% to 53.7%. In 1970, the proportion of the white student population was 49.9%, no longer a majority, but still the largest group in the student population. By 1977, the proportion of whites had fallen further to 33.7%; and, for the first time, whites were no longer the largest group.

The black enrollment reached its peak in 1971, and has declined each year since then. From 1971 to 1979, the number of black students in the district dropped from 156,003 to 130,315, a loss of 16% of total black enrollment. During this interval the proportion of blacks remained constant at about one-quarter of the total district enrollment. In the fall of 1979, black enrollment in the district was 24.1%.

By contrast, the Hispanic enrollment has continued to rise, almost doubling between 1966 and 1979. In

1977, Hispanics became the largest single racial or ethnic group in the student population, representing 34.9% of the total enrollment. By the fall of 1979, the Hispanic enrollment had risen to 41.8%. The Asian experience was similar, though on a smaller scale. The number of Asian students rose to 36,269 in 1979, an increase of 50% since 1966.

The 1979-80 racial-ethnic survey showed that of the 542,582 students in the district, there were 242,134 attending minority schools where the student body was composed of 90% or more of minority children.

Assuming that present trends continue, all experts consulted in the case agree that within four — or at the most five — years the student population in the district will be over 50% Hispanic. It is also projected that by 1987 white student population in the district will decline to approximately 14%, and black population will decline to approximately 18%. The Asian population may be expected to expand. These

trends, which reflect powerful and complex forces rooted in historical, social, and economic circumstances, are projected to exist regardless of the presence or absence of a court-ordered desegregation plan.

COMPUTER SIMULATIONS OF THE IMPACT OF VARIOUS PLANS FOR DESEGREGATION

Because of the size and complexity of the Los Angeles Unified School District, it became obvious to the court that it would be unable adequately to deal with the conflicting claims of the parties as to the relative efficiency of the various plans presented by them for desegregation of the district without independent and detailed analysis of the consequences of the alternatives suggested. The sheer numbers of schools, distances, students and combinations thereof were beyond the ability of the court to make any reasonable evaluation without computer-aided analysis. With the consent of the parties and upon the

advancement of the necessary funds by the respondent board, a private corporation was appointed as an expert to prepare a data base containing the necessary information, and to project the probable results of various plan prototypes and variations of the types proposed by any party or intervenor. Two series of simulations were produced to project the probable school-by-school results. These simulations provided the parties and the court with a better idea of the probable results of each basic prototype. Having received the results of the first round of simulations, the parties then proposed further variations, and the probable results were projected. In all, 36 different plans and variations were projected and the results published in Court's Exhibits II 201 and II 202.

The following is a description of these operations, the projections, and some general conclusions as written by the simulators, which, for the purposes of this order, the court adopts.

"Task

In the hopes of aiding both the parties and the court in weighing alternative plans and approaches to desegregation, the court, in 1979, ordered preparation of two series of computer simulations of variations on prototypical approaches to desegregating the Los Angeles Unified School District. The five prototypes selected, after consultation with the parties and intervenors, were the following:

1. An all-voluntary plan.
2. A voluntary/mandatory plan.
3. A voluntary/mandatory plan that makes use of available space in surrounding school districts.
4. An all-mandatory plan in which the concept of "combined minority" is replaced by specifications of individual races/ethnicities in patterns which can produce a desegregated school either in a biethnic or multiethnic mode.

5. An all-mandatory plan employing the conventional (white-combined minority) definition of desegregation.

The object of each simulation was to produce a systematic projection of the probable school-by-school consequences of adopting each variation on each prototype during the school years 1980-81 to 1984-85.

The first series of 17 variations reflected the first four the five prototypes listed above. All of these initial simulations were historically-based, in that none assumed any major discontinuity in behavior as against the patterns evidenced in the past. Each variation was formed on the basis of a digest of the proposals made through the years of litigation of **Crawford** although each was a conglomerate, and not a representation of (sic) proposal of any single party at any particular moment in time. The 19 additional variations contained in the second series were mainly comprised of amended versions of those in the first series; that is, most of the second series variations represented

applications of new assumptions or constraints to the simulations performed in the initial sequence. Some of these changed assumptions introduced non-historical behavior patterns (e.g., the absence of flight, a reversal in demographic trends) in order to test the effects of such discontinuities upon the patterns that would be produced on the basis of history alone.

In the broadest terms, all of the simulations were designed to respond to two basic questions put by this court:

1. What would have been the school-by-school results of demographic shifts in school population in the LAUSD area if the question of mandatory transportation for school desegregation had never arisen?
2. Given that this question in fact has arisen and has led to introduction and implementation of a voluntary/mandatory plan for two years, what would

introduction of each of the variations simulated produce during the school years 1980-81 through 1984-85 in terms of the following phenomena:

- The number of desegregated schools in each year.
- The number of segregated schools, divided into those that are Racially Isolated Minority Schools (RIMS) and those that are Racially Isolated White Schools (RIWS).
- How many pupils would be placed in desegregated schools?
- What would be the racial/ethnic composition of each grade and school level?
- How many pupils would be transported, and, within this figure, how many would be mandatorily transported?

- What would be the characteristics of voluntary desegregation (i.e., Magnet and PWT) programs?
- What would be the optimal number and specific identity of the groupings of schools (into pairs, clusters, and midsites) in the mandatory element of plans which contain such an element, if the objective were set at mathematical optimization of the number of desegregated schools in the district as a whole?
- What incremental dollar costs would be attributable to the desegregation effort?
- What would be the effect on programs for non-English-speaking (NES) and limited-English-speaking (LES) pupils?

Computer simulation is the only practical means of forecasting school-by-school consequences of programs which affect a student body of more than 500,000 pupils, arranged in an institutional configuration of more than 600 schools. Although theoretically possible, a noncomputer-aided calculation would be prohibitive in terms of time and resource requirements. However, computer simulation has necessary imperfections that must be recognized. It must assume standard patterns of behavior that vary only within a stated and limited number of possible ranges. It must follow every rule to the letter, whereas human administrators with broad experience and sensitivity to the system would doubtless introduce exceptions and other softening of rules where the circumstances require. As a result of these and other constraints, the simulations were not presented as precise forecasts of exactly what would occur if each variation were introduced. Rather, they represent a directional aid showing the basic pattern and order of

magnitude of change that might be expected, with the understanding that it is quite likely that the administrators involved would follow at least slightly different patterns in the way rules would in fact be applied.

Methodology

The simulations were accomplished through sequential applications of a series of mathematical sub-models which, taken together, constitute an overall model of the behavior of the school and pupil populations of the LAUSD. Nine sub-models were developed for the First Series, and a few additional and amended ones were added for the Second Series. They are described at length in the reports (which comprise well over 1,000 pages) that summarize the results achieved. In general, each is a mathematical technique by which information on the projected population and configuration of pupils is adjusted so as to reflect the effects of different assumptions and constraints. The simulation of each variation is

achieved by applying these sub-models in sequence, so as to replicate the process by which decision maker would presumably implement plans of varying descriptions and rules. The mathematical methodology employed follows standard established simulation techniques, although there was some innovation required. These techniques were subject to expert examination by agents of the parties, and received no detailed criticism or suggested amendment.

General Findings

As noted above, even a summary of the findings of the 36 simulations conducted occupies more than 1,000 pages. All that can be provided in this brief compass is a list of a few of the most sweeping generalizations that seem documented by the projections. And even these must be confined, except where specifically noted, to those simulations which assumed historically based behavior, as against those that assumed major discontinuities in historical patterns of behavior. If

historical patterns prevailed, the following general expectations are encouraged by the simulations:

1. A continuation of the demographic trends that have characterized the Los Angeles area for the past 15 years, even in the absence of any desegregation plan involving mandatory transportation, would have substantially reduced the share of white pupils in the LAUSD. The projections indicate that even if there had never been a mandatory desegregation plan introduced — and, therefore, no flight from such a plan — the proportion of white pupils would have shrunk to 20% (118,000) by 1984-85. All the simulations confirm that this long-term shrinkage in the white pupil population, if continued, will be the dominant factor in determining the feasibility of

desegregating schools in the district. The greater or lesser flight projected to be involved in one or another variation would make a noticeable difference in the first few years of the five-year projection, but the much greater long-term influence of demographic trends tends to make the results of all variations converge into the same relatively narrow percentage range of desegregated schools by the end of the projection period.

2. Accordingly, all variations that employ historically-based patterns of behavior would achieve their largest school desegregation effects in the first year of the projection, and be substantially less effective in this regard by 1984-85. None of the plans that employ the white-combined minority definition of

desegregation would desegregate more than 39% of the schools in 1980-81, nor more than 29% in 1984-85. The variations simulated that employ the multiethnic definition of desegregation would also fall below these maxima except where the multi-ethnic definition is structured so as to accept the possibility of desegregation of bi-ethnic schools by any two races/ethnicities, whether or not whites are present. Under the latter conditions, it is projected that the total of desegregated schools could achieve 45% in 1980-81, but would shrink by 1984-85 to 25%, well within the range achieved by plans using the more conventional definition of desegregation.

3. The situation with respect to the number of pupils placed in desegregated

schools by the variations simulated is quite similar, but on the whole a bit short of the pattern described by school desegregation. No historically-based variations, except the aforementioned version of the multi-ethnic plan, would result in desegregation of more than 33% of LAUSD pupils in 1980-81, nor more than 23% in 1984-85. The multi-ethnic plan that would permit any two races/ethnicities to desegregate a bi-ethnic school would result in 44% of the pupils desegregated in the first year, but this would shrink (to 23%) within the range of the other plans by 1984-85.

4. Virtually all of the desegregation achieved by any of the variations other than those of the multi-ethnic prototype would be accomplished

through reduction in the number of white schools, rather than any substantial change in the number of Racially Isolated Minority Schools (RIMS). The multi-ethnic approach would have a somewhat greater effect on RIMS in the first few years of the period, but the flight that is projected to result from such a plan would substantially reduce this differential effect as the period moved along. Also, the RIMS-reaching effects of the multi-ethnic approach would be achieved at the price of mandatory transportation of many more pupils than would actually be in desegregated schools. It would also impose a substantially longer average travel time upon whites, as compared with minority groups. Under all plan[s] applying the more

conventional definition of desegregation, however, all minority groups would have a substantially higher travel time than would whites.

5. With respect to grades and levels, the projections indicate that in general the proportion of pupils involved in desegregation would rise with each grade up to about the eleventh and then tail off. The highest proportion of pupils involved at any level would be likely to be in the upper reaches of junior high school. However, because there would be more elementary school pupils than those at other levels, the highest absolute number would be in the elementary grades.

6. All historically-base variations that employ a mandatory element would yield a higher percentage of schools

desegregated in all years than would any variation employing nothing but voluntary approaches. However, by the end of the projection period this difference may not amount to more than about 10% of the schools in the district. In order to achieve optimal use of the shrinking number of white pupils in the schools in ways that achieve the maximum number of desegregated institutions, the mandatory element of almost every variation that employs pairs/clusters/ midsites would require that these groupings be entirely changed at least once during the course of the projection period, so that virtually no pupils would be involved in the same pair, cluster, or midsite for more than three school years. Moreover, in order to avoid

mandatory transportation in instances where it achieves the desegregation of neither the sending nor the receiving school(s), many of the groupings that were announced would never be activated because post-announcement flight would invalidate them, and many of those that were activated in the first year or two would go out of existence during the second or third years prior to the general pupil reassignment. Therefore, the school which any particular pupil would attend would not in many instances be known until after the first day of the term when it was clear which of the pupils expected had turned up and which had not.

7. If the District attempted to avoid this in-and-out pattern of mandatory groupings of schools, and employed the

simulation process in order to "pre-shrink" the list of groupings and announce only those that showed the potential to survive for at least three years, the school desegregation results are projected to be at the upper end of the range outlined in point 2 above. However, it is not clear that this simulation is reliable, because it is questionable whether historical rates of pupil flight would apply in a context in which some fixed number of schools had been established as the only institutions in the system that would be subject to mandatory transportation at any time during the following 3-5 years.

8. With respect to the voluntary component of the voluntary/mandatory programs simulated, the definition of permissible district-wide magnet

schools proves to be decisive with respect to the incidence and importance of the magnet approach as a desegregation measure. All simulations were bound by the rule that only magnets that met the conventional white-combined minority desegregation definition would be permitted to form during the projection period, and only those existing magnets that contained at least 10% of whites and combined minorities would be permitted to survive. Under this rule, the simulations indicate that relatively few new magnets would be formed, and that the bulk of the magnet complement at any time would be made up of currently existing institutions that would be segregated. The net effect of magnet attendance, therefore, would be to

provide a segregated school experience. The numbers of pupils involved in desegregated magnets would be so small a proportion of the overall enrollment as to make virtually no district-wide statistical difference. The Permits with Transportation (PWT) program, on the other hand, would have some desegregating effect (on the order of 2% of the district schools), but would transport many more minority pupils to RIWS than to desegregated schools. It also would involve by far the longest average travel times among the repertoire of desegregation programs.

9. Fifteen minute differences in ceilings on allowable travel times for mandatorily transported pupils would not, according to the projections, change the overall average time spent

in travel by any substantial margin. Moreover, the desegregation effects of variations that differ only by such a difference in ceiling on travel time are exerted primarily only in the first three years of the period. After that the desegregation effects are quite similar. However, the imposition of different travel times does change the shape of the mandatory transportation program very considerably, with the variation employing a shorter travel time usually utilizing more clusters and midsites during the first three years of the period, and more mandatory school groupings in general during the last two years than would an identical plan with a higher travel ceiling. And, the composition of the school groupings that would be formed under plans that

were identical except for the difference in travel time ceilings would normally be very different indeed, so that very few of the pairs/ clusters/ midsites formed under one regime would exist under the other.

10. All historically-based variations except the multi-ethnic ones would result in the bulk of the travel burden being placed upon minority pupils, but would result in desegregated educational experiences for a very much larger percentage of white pupils than of minority ones. The multi-ethnic plans would reverse the proportion of transportation burden, but would also result in a larger share of whites placed in desegregated settings.

11. Simulation of variations which assume non-historical behavior do suggest some

general propositions about the relative importance and interplay among the principal constraints. Most important:

— Demographic trends are confirmed to be the most important single influence. The only circumstances under which the projections indicate that on the order of 50% of the schools could be desegregated and this level could be maintained or even slightly expanded over time are those in which the non-school related outflow of whites is reversed so that the total white school population in the district climbs.

— The second most important constraint would appear to be pupil flight, which exerts a

measurable influence upon the total of desegregated schools (on the order of 11% of all schools) in 1980-81. Put another way, if there were no flight, one could expect the desegregation effect of most variations to rise by about 11% of district schools in the first year. However, demography is projected steadily to overwhelm the importance of flight, so that by the end of the period this marginal effect would be reduced by more than half.

— Only when both the demographic and flight constraints have been relaxed does the importance of the ceiling on mandatory travel time begin to be visible. It appears that a 45-minute limit on

one-way travel would put a ceiling on achievable school desegregation in the 50-60% range during the first year even if the constraints posed by flight and demography were to disappear.

12. An area-wide resource utilization plan, built on any of the voluntary/mandatory variations simulated, would have virtually no effect on the number of desegregated schools within the LAUSD. Since the rules of these variations require that everything possible be done within the district before any pupils are transported outside, the resulting additional mandatory transportation is confined to pupils from RIMS moving into available space in suburban school districts. Because the variations provide that no

pupils be transported into LAUSD from the surrounding school districts, the result is simply to make the sending RIMS smaller, not to desegregate them. Thus, the desegregation result of an area-wide resource utilization program would be entirely expressed in terms of larger numbers of pupils in desegregated settings, not in larger numbers of LAUSD desegregated schools. Also, all variations simulated indicate that all pupils transported out of the district would be minority members, and that most of these would not be sent to desegregated schools. Rather, they would join a currently very small or nonexistent minority component in RIWS in numbers insufficient to transform these Racially

Isolated White Schools into desegregated ones.

13. Taking an austere view of the incremental dollar costs necessarily entailed in a strict reading of each variation (a view which, for example, would exclude just over half of the costs of the current plan that the LAUSD classifies as desegregation-related), the simulations project the following ranges of five-year total cost effects for the historically-based variations on each prototype:

(In millions of dollars)

Prototype	Five-year total cost effects in 1980 dollars	Average yearly cost	Five-year total cost effects in inflated dollars*
All-Voluntary	$178-207	$39	$209-260
Voluntary/ Mandatory	246-401	65	287-469
Multi-ethnic	548-596	114	637-693
Area Resource Utilization	347-417	76	408-499
All-Mandatory	225-317	54	263-371

*Inflation rate employed in estimation is eight percent per year.

14. The variations simulated diverge very little in their NES/LES effects, nor would any plan introduce NES/LES conditions markedly different from those now existent in the LAUSD. If sufficient bilingual teachers were available, pupils would be distributed in such a way that 95-96% or more of the requirements created by current State and Federal rules could be met. However, nothing in any of the plans would, per se, ameliorate the current situation in which the supply of such teachers amounts to less than half the number that would seem to be required by these rules. In short, there is no reason to expect any of the variations to make the NES/LES situation worse, but none would affect the major

problem afflicting current NES/LES programs."

The court finds that the inescapable deductions from these projections compel a somewhat pessimistic view of any permanent desegregation plan confined within current district boundaries being effective to reach most of the minority segregated schools in the Los Angeles Unified School District.

It is clear that if the Constitution requires a mandate on a governmental body to give relief to petitioners, such mandate must be directed to a body capable of granting relief. The limits of relief within the boundaries of Los Angeles Unified School District will have been reached with the contents of this order.

DEFINITION OF SEGREGATION AND DESEGREGATION

The findings of fact and law of this court were affirmed by the California Supreme Court, save for

the use of specific racial and ethnic percentages defining the scope of the respondent board's responsibility. In discussing the definition of desegregation in the context of requiring a school board to take steps to desegregate, the Supreme Court used the following terms, which seem to describe the manner of initial identification of minority isolated schools:

> . . . schools in which the minority student enrollment is so disproportionate as realistically to isolate minority students from other students and thus deprive minority students of an integrated educational experience." (**Crawford v. Board of Education** [1976] 17 C.3d 280 at p. 303.)

The Court then went on:

> "Under the California Constitution, as under the federal Constitution, '[w]hat is or is not a segregated school will necessarily depend on the facts of each particular case. In addition to the racial and ethnic composition of a school's student body, other factors, such as the racial and ethnic composition of faculty and staff[,] and the community and administration attitudes toward the school, must be taken into consideration.'" **Crawford, supra**, at pp. 303-304.)

In footnote 16, the Court added:

> "Although, as we have emphasized, for constitutional purposes a school may be desegregated without being racially balanced, this does not mean that reference should not be made to the racial composition of the district as a whole in determining whether a given school is segregated or not. Thus, for example, in a school district in which 'minority' students significantly outnumber 'majority' students, a school whose racial composition might in some other district make it a 'segregated school' may not warrant that legal characterization. Unquestionably in many situations the determination of whether a given school is 'segregated' or not, under the above guidelines, will be a difficult decision, but we believe the variety of factual settings existing throughout our state foreclose a more rigid or concrete definition." **Crawford, supra,** at p. 304.)

It is important to remember that the context of the decision of the California Supreme Court was based on 1970 findings when the racial composition of the Los Angeles Unified School District was a little more than 50% white and nearly 50% minority, and which minority at that time was more evenly divided between blacks and Hispanics than it is today. As of this date, using the October 1979 racial and ethnic

survey, the white student population had dropped to 27%, the black student population had stayed fairly stable at 24.1%, the Hispanic student population had grown to 41.8%, and the Asian population was 6.7%. More significantly, it is the estimate of all experts that, regardless of any other factor, even including white flight, the demographic projections for the Los Angeles Unified School District indicate that in five years the white population will be reduced to 15 or 20% of the total school population. (See Farley, November 14, 1978, and First and Second Simulation Series, Hamilton, Rabinovitz & Szanton.) Indicative of the validity of this projection is the October 1979 Kindergarten enrollment wherein the white students comprise only 17%. This, of course, is the predictor of the white student population when that cohort passes through the next twelve grades.

In the context of those undisputed facts, this court and the parties have spent much time in attempting to obtain workable definitions of segregation and

desegregation which can be readily applied by the school district and this court in its monitoring activities and still be within the **Crawford** definitional statements.

The parties have basic sociological and philosophical differences as to what measures are true indices of segregation and desegregation, and how to alleviate and overcome, within racial and ethnic groups, the harms of racial isolation. For example, if the alleviation of harms of segregation is to integrate the minority student into the majority mainstream so as to achieve and make the most of his life chances through contact and interjection into the majority power structure, then the composition of a school would have to be made in such a manner that the minority student would have the maximum contact with white students. Thus, a higher ratio of white students would be important. If, on the other hand, the process of desegregation is to erase the perception of a school's identity as a minority isolated school, it is possible

through the multi-ethnic definition proposed by the petitioners to desegregate more schools with smaller numbers of white children.

Both sides recognize the difficulty placed upon the district by the diminishing number of white students in attempting to reach any of the goals by any method approved in **Crawford.** The board's voluntary plan seeks to preserve the white school's identity and yet permit contact by the minority child with those white students in the predominantly white schools through the use of the PWT program. This program is described in other parts of this order. Simply put, this means that the minority child is transported to the white school and the white character of that school is maintained. The district argues that while such a program does not desegregate minority schools, it affords more minority children better opportunities for contact with white children and thus better alleviates the harms of racial isolation than would any other means, while also eliminating white flight. The

petitioners argue, however, that in any remedial action the desegregation of existing schools is the goal, so that their perceptual characterization as minority schools may be erased. They assert that this is best done by the introduction of white children into those schools.

These differing views are mentioned only for the purpose of showing that the resolution of the issue of definition is the linchpin of the remedial portion of this case.

Faced with the bleak fact that the number of white children is rapidly dwindling, the petitioners have proposed a definition which rejects the concept of "combined minority" and classifies each student by his specific racial or ethnic dominant characteristic, such as Hispanic, black, white or Asian. The petitioners argue that the effect of this characterization would be that perceptions of the school would focus on subclassifications instead of on total minority or combined minority. This change of focus, it is

argued, will eliminate, or at least substantially alleviate, the harms that are created by the former perception that the school was minority segregated. Accordingly, petitioners and intervenor, Project Integration, argue that the requirement of **Crawford** is to erase the perception of each minority school as a black, Hispanic, or Asian school by the introduction of white children only to the extent necessary to remove the perception of segregation by identification of a specific minority group. This would seem to mean that whites should constitute a plurality of the largest of the minority groups present in the school. For example, a school 31% black, 32% Hispanic and 37% white would not be a segregated school even though 63% of the students would be classified as "combined minority" if that concept had been used, but would be segregated if the 63% constituted one minority group.

This court is led to the conclusion that any definition has meaning and form depending upon the

available numbers in each racial and ethnic group, and depending upon the use of the definition.

The first use of a definition is to identify schools suffering the harms of racial isolation. There are 283 minority schools in Los Angeles that would have 70% or more of their student population which is either black, Hispanic, or a combination of both if the present pairs, clusters, and midsites are abandoned. [1] Under any approach advanced in this case, these numbers compel the identification of all such schools as segregated. The number of these schools that could be desegregated under the most efficient of programs would still leave untouched very large numbers of minority isolated schools. (See Simulations, First and Second Series, Hamilton, Rabinovitz & Szanton.) Therefore, it has little importance to these schools which of the two definitions should be used for the

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[1] These figures refer to school populations if their populations included all students who reside within their attendance boundaries.

purpose of identifying minority isolated schools which presumptively are the result of the past segregative acts of the respondent board. Accordingly, to tailor any definition for use at the identification stage of the remaining proceedings, other than to use the Supreme Court's broad definition, is superfluous. The phase of the case where definition becomes important, however, is in prescribing the numbers which make up desegregated schools reconstituted by any desegregation techniques.

The testimony as to a desegregated school containing only two racial/ethnic groups is unanimous that white students should be present in substantial numbers and, if possible, in the majority.

The testimony as to the multiethnic desegregated school is clouded by the circumstances under which the proponents seek to implement that definition. That testimony produced apprehension in this court's mind that the use of this definition, while of great value because of its realistic approach to the rich and varied

ethnic mixture in the Los Angeles Unified School District, posed an unfeasible and unreasonable demand upon the logistics, transportation, and finances of the district, while transporting very large numbers of pupils without desegregating either their sending or receiving schools. These factors compel total rejection of that definition, if applied on a district-wide basis. (See Simulations, Second Series, Hamilton, Rabinovitz & Szanton.)

The court, however, believes that if the scope of application of this definition could be reduced to smaller geographic areas, and the logistics simplified, the advantages of this definition could be realized. It is the court's intention, therefore, to adopt as a working definition of a desegregated school containing only two racial/ethnic groups, one with a simple majority of white students, plus or minus 10%. In those areas where there are sufficient numbers of minority groups and the practicalities of the situation make it reasonable and feasible, the court intends to adopt a

definition of a multi-ethnic desegregated school which would require a plurality of white children, plus or minus 5%, over the largest of any of the minority groups present. The white complement in a desegregated school may not exceed 10% more than a majority in a bi-ethnic school or 5% more than a plurality in a multi-ethnic school.

The demographic projections for the district are such, however, that many schools initially desegregated will not remain so for more than three years. A rigid extension of these definitions would require that the district redraw attendance boundaries, reconstitute schools and abandon the desegregated status of other schools in an attempt to achieve strict adherence to the formula. It is this court's belief that once the reconstitution has taken place a school may or may not have become truly integrated within that time period, depending upon the efforts of the school staff, the skill of administration, cooperation of parents, the quality of education, and the nature of the

neighborhood. It is conceivable that at the end of those three years, even with the demographic changes envisioned, the school may have effectively created the perception in the community that it is integrated. If so, there would be little need to address the harms of past racial isolation by further reconstitution unless the number of white children is so small that there can be no agrument that the school is not a segregated minority school.

This court is not attempting to violate the rule in **Pasadena City Board of Education v. Spangler**, 427 U.S. 424, 96 S.Ct. 2697, 49 L.Ed.2d 599 (1976), but is attempting to set forth a course of action for the board in the relief of prior judicially-determined harms of segregation in light of the demography of the district.

Both the court and the respondent board have recognized that the alleviation of harms and the remedy therefor must be addressed by an inspection and inventory of the harms in each school. The board

is directed to prepare such an inventory as to each school included in the desegregation process and to make periodic evaluations of the progress or non-progress of the integration process so that the board can make a reasoned judgment, subject to approval by the court, upon the occurrence of those changes in demography, to continue that school in its present configuration or to again reconstitute it.

SEGREGATION AND ENGLISH LANGUAGE USE LIMITATIONS (LES/NES)

The evidence in this case has convinced this court that most students with an English language difficulty arising out of its use as a second language are in minority segregated schools in this district. Because of such segregation, that deficiency is difficult to remedy through peer association with white children, and it is a harm intensified by minority isolation. If this conclusion is correct, then a program for the alleviation of such harm should be included in any plan

for desegregation. Such program should provide for the teaching of skills in the primary language of the child and at the same time teach "English as a second language." The facts upon which this conclusion is based are to be found in the enrollment figures of minority children whose native language is foreign, and in the counts of non-English-speaking and limited-Engligh-speaking students as set forth in the Testimony (Transcript, Volume 72, page 10482). Those data show that of the approximately 225,000 Hispanic students classified within the purview of this order as minority children, about 85,000 are NES (non-English-speaking) or LES (limited-English-speaking). These children, who comprise 85% of all LES/NES students in the district, are mainly concentrated in 93 Hispanic elementary schools. The impact of these concentrations of Hisanic students results in most of the overcrowding in the school district. These areas where these schools are located are ports of entry for continued Hispanic in-migration, and because this

concentration of Hispanic students results in isolation from Engligh-as-a-primary-language students, the child's learning ability suffers unless he is given basic education skills in a language which he understands, while at the same time being given an opportunity to learn English.

Both the United States Supreme Court and the State of California [1] have recognized the necessity of bilingual instruction to prevent the loss of the child's educational opportunities in the public schools. It would seem axiomatic that the proficient use of English is important for integration into the mainstream of society and to take advantage of the opportunities available within the majority society. Further, it would seem logical that the ability to learn the basic skills is necessary to this integration. The language handicap, chronic overcrowding in the

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[1] **Lau v. Nichols,** 414 U.S. 563, 94 S.Ct. 786, 39 L.Ed.2d 1 (1974) and Education Code § 52160 et seq., otherwise known as the Chacon-Moscone Bilingual-Bicultural Education Act of 1976.

Hispanic schools, and the segregation of these children cannot be considered separately. Any plan must address all three in a way that promises a comprehensive solution. In the past, the Los Angeles Unified School District has declared itself unable to meet the requirements of bilingual instruction as required under **Chacon**, and has attempted to be relieved of the **Lau** requirements, as enforced by the U.S. Department of Health, Education and Welfare (HEW), through waivers of enforcement.

The primary barrier to meeting the bilingual instruction requirements is the recruitment of bilingual teaching personnel. Only about 44,000 of the 99,000 LES/NES students are now participating in any bilingual instruction, leaving a shortfall of 55,000 LES/NES students who are nonparticipants. Assuming that it is correct that there is a "critical mass" necessary for bilingual instruction (see report of court's expert, Beatrice Arias), and further assuming that a class of 27 pupils of whom 18 are LES/NES is

necessary for efficient instruction, the current shortfall of teachers is at least 2,000, taking into account the probability of the desegregation of some of these schools. However this figure may be cut through the use of aides and other and different forms of instruction.

Petitioners have suggested as cures for the shortfall certain actions that will:

1. Revise recruitment standards;

2. Provide in-service instruction to existing mono-lingual teachers, allowing them to qualify for bilingual certificates; and

3. Provide an incentive pay schedule to recognize bilinguality as a compensable skill.

The court is not certain that these proposals are the limits of available remedies but suggests that solutions be searched for in other forms as well. The need is acute. It is almost incomprehensible how those 55,000 students unable to communicate adequately in English can acquire the knowledge and skills necessary

to effective competition in the economic marketplace.

The briefs of the parties in this case indicate that this is a problem which should be solved in connection with the desegregation of the district, but their approaches differ. The petitioners seek a fiat that the court mandate incentive pay; eliminate seniority rights for assignment to bilingual duty; and maintain a separate hiring and lay-off policy for bilingual teachers as opposed to those applied to other teachers; this so as to maintain the continued employment of bilingual teachers and to allow unrestricted transfers not subject to union or seniority rules. The court feels that these suggestions can best be determined by a labor agreement between the intervenor, United Teachers of Los Angeles (UTLA), and the school board. Failing such agreement, the court reserves jurisdiction to make such other and further orders as are necessary to alleviate the described harms. It is understood that UTLA has submitted itself to the

jurisdiction of this court as to all reasonable and feasible orders made respecting desegregation.

Petitioners' brief suggest[s] other and further specific orders that would require clustering LES/NES students in the desegregation plan so as to insure that they are represented in sufficient numbers in the receiving school or in their home school as to require bilingual instruction under **Chacon**. Petitioners also suggest that there be a program of comprehensive collection of data on NES/LES bilingual teachers by grade level, pairs, clusters, areas and language so that pupils and teachers can be properly identified and placed. These requests appear reasonable and practical. Petitioners request that the existing **Lau** elements agreed to between the district and federal enforcement agencies (HEW) be made a part of this order. It is not the function of this court to enforce the **Lau** agreement, but it is the intention of this court to incorporate as a minimum standard of bilingual instruction the **Lau** standards in any plan. Further, it

is the conclusion of this court that bilingual instruction of minority isolated students is a necessary part of any desegregation order and the court now adopts the present standards as set forth in Article 3 of Chapter 7 of the Education Code beginning with Section 52160 and continuing through §52179, with all the amendments now presently in force, as the standard for the alleviation of the harms of isolation suffered by minority students with a foreign language as their primary language. Any subsequent diluting of those standards which would provide less bilingual instruction in Los Angeles by reason of any act of Legislature shall not diminish this bilingual instruction requirement without further order of this court.

RACIALLY ISOLATED MINORITY SCHOOLS (RIMS)

It is this court's observation that the impact of racial isolation is and has been most severe in those schools which cannot be desegregated by this order or

any other order prescribing reasonable and feasible measures and confined within the present geographical limits of the Los Angeles Unified School District. Because of this, the most difficult of problems facing the district and this court is the formation of a program to alleviate, if possible, the harms of racial and ethnic isolation suffered by students in those schools. In recognition of this, on June 21, 1979, an order was made by this court, denominated "RIMS Order," which set in motion certain programs, including an urban teacher incentive plan, which seem to have been of some value. Further, the order identified the then RIMS schools which were the subject of that order and program. Because of the order of this date, many factors of that order may not now be relevant. Because of the importance of this program and the modification which may be necessary by reason of the effect of this order, the court feels that it is necessary to hold a further hearing and now makes no further order except as is set forth in the

guidelines herein and to continue such existing orders as are now in effect pending further hearing thereon. This hearing shall be calendared by the petitioners on the same date as is now set for the hearing on the respondent board's "Overcrowding Plan."

GENERAL PURPOSE OF FURTHER BOARD AND COURT ACTION AND SCOPE OF THE COURT'S GUIDELINES

Because of the limited success of the plan which is now in operation and the rejection of the proposed voluntary plan and the finding that the respondent board has not embarked on a course of action which will eliminate segregated schools and is not likely to do so, the court has the unpleasant duty of setting forth guidelines for a plan which it hopes will desegregate the Los Angeles Unified School District in a manner as to include as many racially isolated schools as is reasonable and feasible and which will include, within those participating schools, grades 1

through 12. These guidelines are intended to be the strictures within which the board is directed to act, and this court will not approve any plan that does not conform to these guidelines unless good cause is shown and upon timely application.

The board is now ordered to prepare a plan pursuant to the schedule herein, and which will be instituted in September 1980 for the school year 1980-81. The board is further instructed that time is important to all the parties, the children and the parents of the district, as well as to this court. For that reason development of this plan shall have first importance in all business coming before the board. The staff of the district shall be instructed by the board that their first priority shall be the development and implementation of a plan consistent with these guidelines.

It is the general intent of these guidelines to desegregate, insofar as external factors will allow, as many schools as is possible, consistent with the

Supreme Court's directive that a plan be reasonable and feasible. To do this, the court recognizes that racial and ethnic minorities have differences which may require different treatment; that there exist neighborhoods and communities which are different from each other; that the creation and maintenance of multicultural communities are important; that a plan must provide for reasonable stability and certainty and require that the burdens will be borne as equally as possible by all participants. The court further recognizes that existing provisions for escape from these burdens create an element of unfairness in administration and should be abolished. The court further recognizes the necessity of credible and fair implementation, along with competent monitoring to allow updating and proper evaluation. The court further recognizes that the basic administration of the plan should be left wth the Los Angeles Unified School District, as the court believes that the staff, given directions and guidelines, will be able to effectively

create and carry out a plan within these guidelines. Lastly, knowing the impossibility of creating any plan which would, within the geographical limts of the Los Angeles Unified School District, include all minority isolated schools, the court recognizes that many such schools will not be touched by the desegregation process and so directs that the plan must contain equality in all possible instances between those schools included within the desegregation process and the minority isolated schools. This will include equality in the concern of the board for all students; equality of expenditure per student for desegregation and alleviation of isolation; equality in staff quality and staff training; equality in equipment and structures; and equality in education programs.

To accomplish desegregation within these guidelines, the court herein directs that the district be divided into eleven areas (see Exhibit #4 attached), seven of which are expected to contain the demographic characteristics necessary for desegregation,

and the other four remaining are expected to be substantially unavailable for desegregation through reasonable and feasible means. (See Exhibit #3 attached.) Any mandatory desegregation program implemented will include as eligible all elementary schools and grades, except Kindergarten; and all junior high schools and high schools. The desegregation process shall start forthwith in the elementary and junior high schools, including appropriate adjustment of attendance boundaries, feeder patterns and student assignments. The students in the present high school (10th, 11th and 12th) grades will be allowed to enroll and graduate at their present schools. Mandatory provisions for high school desegregation programs will begin with the pupils entering the 10th grade commencing in 1981-82, the 11th grade beginning in 1982-83 and the 12th grade beginning in 1983-84.

The board will be allowed to devise individual desegregation plans for each area as long as all are consistent with this order. Community input is

encouraged to allow choice of forms of desegregation techniques. The present district-wide magnet programs will be allowed to continue provided they meet these guidelines and are desegregated as defined herein. District-wide magnets which are presently not desegregated shall be terminated forthwith, save for those in areas herein numbered 7, 8, 9, 10 and 11.

The PWT program may continue. PWT participation may be offered only after mandatory student assignments have been made, and will be available only to those students who are not mandatorily assigned. No student shall be exempted from mandatory assignment because of his acceptance into the PWT program. Neither shall any PWT student be counted as a resident for purposes of exempting the receiving school from participation in mandatory desegregation programs. Further, no PWT student shall be permitted to segregate any school that would otherwise be desegregated.

The guidelines also provide for an evaluation of the integration process in each school. These guidelines further envision that there will be no transfers for desegregation purposes in any mandatory program which will cross the boundaries of the areas.

This court is painfully aware of the circumstances which result in the use of these guidelines and which will leave large numbers of minority isolated schools unable to be desegregated. These circumstances are achieved by factors beyond the control of this court: (1) the demography of the district and the placement of the various ethnic and racial groups, and (2) the immense distances between such ethnic and racial concentrations.

In an attempt to deal with these obstacles the primary factor in designing the zones is to make the most efficient distribution of increasingly scarce white pupils as possible. Every predominantly white school will be involved in a desegregation plan. The real option available to a planner is not which white school

but which minority school will be included in any plan. In each instance the areas prescribed herein were drawn so as to eliminate unduly long distances and to maintain as much as possible a sense of community and familiarity so as to preserve and maintain the resulting desegregation as well as minimizing the effect of white withdrawal and natural demographic change. These designs were chosen after examining the history of two years of desegregation in the district and the computer simulations. [1]

To insure compliance with these guidelines and to report to the court periodically as to whether these guidelines are being complied with, the court intends

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[1] It is the personal belief of this court that subclasses of minority isolated schools should be created pursuant to both student need and desegregation effectiveness so that a priority may be established for the desegregation of minority schools. This would be of value in helping solve the painful dilemma of a court in the choice of minority schools to be included in any limited plan restricted by demography. This approach was suggested to the parties during the course of the trial but not acted upon by them. Such an approach might be useful in many other districts similarly situated.

to appoint Edward Hamilton and Francine Rabinovitz as special monitors, whose duties are set forth in this order. The monitoring committee will continue but will report to the court's special monitors. The office of referee heretofore used as the "eyes and ears" of the court will, therefore, no longer be needed. The court is grateful to Monroe Price, Esq., for his valuable service as referee during the past three years.

GUIDELINES FOR THE FORMATION OF AREA DESEGREGATION PLANS

I. GROUP CLASSIFICATIONS

The classifications for desegregation shall be based on identification of the predominant ethnic and racial character of each student and shall be limited to one of four groups: (1) Hispanic; (2) white; (3) black; and (4) other minorities, of whom Asians/Pacific Islanders constitute a large majority, but in which group other minorities are included.

II. DEFINITION OF A DESEGREGATED SCHOOL

The court adopts as a working definition of a desegregated school containing only two racial/ethnic groups, one with a simple majority of white students, plus or minus 10%. In those areas where there are sufficient numbers of minority groups and the practicalities of the situation make it reasonable and feasible, the court adopts a definition of a multiethnic desegregated school which would require a plurality of white children, plus or minus 5%, over the largest of any of the minority groups present. The white complement in a desegregated school may not exceed 10% more than a majority in a biethnic school or 5% more than a plurality in a multiethnic school.

III. AREAS

For the purpose of desegregation, the Los Angeles Unified School District shall be divided into eleven (11) separate areas. These areas are delineated on the map

attached hereto as Exhibit #4. Changes in these area boundaries may be made only upon motion brought within fifteen (15) calendar days from the effective date of this order and only upon grounds that any change will more effectively accomplish desegregation, preserve participation, and equalize the burdens upon and advantages to the affected schools.

IV. RESTRICTIONS ON TRANSFERS

Except as set forth herein and unless good cause is shown, no student assignments will be made, nor transportation given across area boundaries for the purposes of desegregation. It is the intent of this rule to provide as much stability to each area plan as is consistent with the mandate.

V. CONTENTS OF PLAN

For each area, there shall be prepared a plan either for desegregaton or for alleviation of the harms

of racial isolation. Each area plan may differ from the others in the techniques used, as long as the goals described herein are achieved. Each area plan shall be separately approved by the court. Each plan shall contain the detailed plans and schedules to be used for implementation. No school containing students of only two races/ethnicities may be exempted from reconstitution unless its complement of white pupils falls below 50%. In reviewing each area plan, the board will estimate and the court will consider how each relates to the other plans and to the district-wide effect.

VI. COMMUNITY AND PARENT INPUT

The board is directed to provide a mechanism for the receipt and use of community, staff, and parent communication directed toward the formation of such plans, and to give such communication serious and responsive consideration. The design and detailed

description of this mechanism shall be filed with this court by July 15, 1980.

VII. PLAN POTENTIAL DETERMINATION

The plan for each area shall be transmitted by the board to the court within forty-five (45) calendar days of the effective date of this order, and shall have as a goal desegregation of 90% of the maximum number of schools which a computer-assisted simulation will show as possible to desegregate during each of the years 1980-81 through 1982-83. Such simulations shall be provided by the board and be subject to the review of this court. Care shall be taken to preserve all schools which are already desegregated without the application of any plan, with the above-noted exception of bi-ethnic schools containing between 50% and 60% white students. Further, the plan shall set forth precisely the technique and procedures to be used in each area and the results expected in each year from each measure.

VIII. SYNCHRONIZATION OF PLANS

Each area plan shall also show the administrative arrangements for implementation. However, each area shall have an identical schedule of main events (e.g., date of student assignments, etc.). Such area plans shall provide for the assignment of students to the various schools withn each area as needed for the purpose of complying with desegregation objectives, save as set forth in the following paragraph.

IX. VOLUNTARY TECHNIQUES

Voluntary techniques may be used, if they:

(a) result in desegregation of schools;

(b) do not lessen the effectiveness or the equity of the mandatory programs;

(c) are equally accessible to students of all races and ethnicities;

(d) are not relied upon to desegregate more than 15% of the schools to be desegregated in

each area under this order.

This limitation on voluntary techniques may be increased by the court subsequent to the year 1980-81 if the area's voluntary program proves successful in that it has a clear record of achievement in terms of these guidelines.

X. SCHEDULE OF IMPLEMENTATION

All students in grades 1 through 9 are and shall be available for mandatory reassignment for purposes of desegregation commencing 1980-81. All students presently in grades 10-12 shall not now be reassigned for the purposes of desegregation, as grades 10-12 will be desegregated in increments commencing 1981-82. The schedule for desegregation of high school students is:

Grade 10 - 1981-82

Grade 11 - 1982-83

Grade 12 - 1983-84

XI. IMPLEMENTATION STAFF

The board is directed to preserve or create, with such reductions or augmentations as may later be found necessary in each area, the school and area teams necessary to facilitate formation and operation of groupings of schools for desegregation purposes, and to establish similar special arrangements for alleviation of the harms of racial isolation in RIMS. The board's plan and budget for compliance with this directive shall be deposited with the court at the same time as the proposal for a mechanism to gather and incorporate parent and community opinion into the planning process.

XII. SPECIAL SCHOOLS

Special schools may be included or excluded by the board from provisions of the plan, subject to the approval of the court.

XIII. PRESENT PAIRS, CLUSTERS AND MIDSITES

Present pairs, clusters and midsites in which some member schools are desegregated and promise continued desegregation with the addition of grades 1-3 and 9, and with the consent of the participating schools, may remain in their present configuration even if this involves transportation across area lines. Because the areas cannot plan until these continuing groupings are identified, the board shall determine their identity and report it to the court within twenty-one (21) calendar days of the effective date of this order.

XIV. FEEDER PATTERNS AND ATTENDANCE BOUNDARIES

Feeder patterns and attendance boundaries shall be reviewed by the board and adjusted to best combine

the desegregation effort and the continuity of the student cohorts.

XV. TRANSPORTATION TIMES AND BURDENS

The average mandatory travel time for any racial or ethnic group shall not be substantially greater than for any other group, and shall be determined by the time required to travel between the sending and receiving schools. The board is encouraged to discontinue neighborhood pick-up where possible and to provide transportation only school-to-school.

XVI. PERMITS WITH TRANSPORTATION (PWT)

The PWT program may be continued as a residual component of a plan, and participants may cross area boundaries. Present PWT students and new applicants, other than those in the temporarily unaffected high school grades, may participate in the program only if:

(a) Mandatory assignments have been made prior to their acceptance into PWT, and they have not been assigned; and

(b) Neither their sending nor receiving school will be made segregated by their participation in PWT.

XVII. DISTRICT-WIDE MAGNET SCHOOLS

District-wide magnet schools that have become desegregated, according to the above definition, during the School Year 1979-80 may continue on a year-by-year basis for so long as such magnet schools continue to be desegregated. Those located in the areas herein designated as 7, 8, 9, 10, and 11 need not meet this desegregation test. No new district-wide magnet schools for the purpose of desegregation may be commenced without specific consent of this court. Magnet schools are not prohibited within areas. In the areas designated 7, 8, 9, 10, and 11, new magnets may be formed that are not desegregated where it is

demonstrable that they will contribute to alleviation of the harms of racial isolation.

XVIII. RACIALLY ISOLATED MINORITY SCHOOLS (RIMS)

The court has scheduled a separate hearing on approaches to be taken to alleviate the harms of racial isolation in RIMS, most of which cannot be desegregated by any plan employing reasonable and feasible means. These approaches will be the subject of a separate order, pending which all existing orders remain in effect. It is here directed, however, that the desegregation plan prepared by the board provide for equality of treatment for RIMS and for RIMS students in all ways possible. This will include equal concern by the board for all students and their schools, equal incremental expenditure per student for desegregation and/or alleviation of isolation, equal staff quality and staff training, equal equipment and structures, and equal educational programs.

XIX. CENTRAL STUDENT FILE ("KID FILE")

To provide ready access to information as to its efforts and to aid the monitoring of the court, the board is directed to construct a file for each student ("Kid File") centrally located and easily accessible, containing the basic information needed for effective desegregation planning. All parties have agreed that the absence of such file is an obstacle to efficient planning and monitoring activities.

XX. DESEGREGATION IMPACT STATEMENT

No capital improvement, major teacher assignment policy, grade grouping, attendance boundary change, feeder pattern change, major curriculum change, or other significant departure from current practices shall be made without an evaluation and a finding by the board of its effect upon segregation, desegregation, integration or resegregation, and

reporting the same to the court of that effect and impact on the mandate and these guidelines.

XXI. INVENTORY OF INTEGRATION PROGRESS

No general revision of mandatory reassignments shall be made until after the School Year 1982-83, unless upon a showing that desegregation is impossible in a particular configuration of students and schools by reason of factors beyond the control of the board. The board is encouraged to build confidence between the students, parents, and administration of the grouped schools so that the configurations are stable within that time frame.

The board is directed to establish an evaluation procedure in order to evaluate each school as to the effect of the desegregation of alleviation programs upon reducing the harms of racial isolation. This evaluation shall be made not less than once a year and the results of such evaluation shall be made available

to the court and to the public. The first evaluation shall be made no later than June 1981.

XXII. COURT MONITORING AND SUPERVISION OF IMPLEMENTATION

(a) The court intends to be fully informed throughout the planning procedure and the implementation. In order to do this, the court has and now does appoint special monitors, which monitors will be authorized and requested to:

(i) Observe on behalf of the court all planning, budgeting, administrative, and other activities undertaken in preparation and implementation of the new plan.

(ii) Provide, subject to the parties' access to the court, immediate interpretations of this order where they may be necessary for planning and implementation purposes.

(iii) Require and set time limits for receipt from the board and/or district staff of any data, special analyses, internal reports and memoranda, or other information necessary, in their judgment, to effective performance of the responsibilities given them in this order. This includes the authority to convene meetings of named district staff personnel.

(iv) Receive, comment upon, and transmit to the court all progress reports, applications for change, and other communications from board to court concerning desegregation issues.

(v) Assess and make recommendations to the court concerning the merits of all proposed plans, implementation schedules, financial allocations, and other steps suggested by the board to carry out this order. The special monitors are authorized

to immediately and ex parte recommend to the court delay of any board or staff action and insist that it be submitted to the court for review if in their judgment the action would result in noncompliance, undercompliance, or other impairment of the effects of these guidelines.

(vi) Prepare independent reports and proposals to the court.

(b) The board is directed to include the special monitors in all activities significant to preparation and execution of the desegregation plan. A showing that the special monitors have not been consulted to the degree they think necessary in order to offer sensible advice to the court will be sufficient ground for the denial of any proposed change or other action requested by the board.

(c) The special monitors will be compensated a reasonable fee and provided all necessary costs and expenses required to carry out the terms of this

order. Such payment will be made in the same manner and in the same method that is used to defray the expenses of the present monitoring committee, and one comprehensive budget will be submitted to the court forthwith for the monitoring committee, and the special monitors, and sufficient funds to meet that budget, when approved by the court, shall be deposited in the same manner as set forth in the minute order dated June 21, 1979. The special monitors shall not be personally liable for any action or failure to act in the performance of their duties. All prior minute orders inconsistent with this paragraph are superseded by the terms herein.

(d) The appointment of the special monitors cannot relieve this court of any decision-making, and the appointment is made for the purpose of aiding the court in gathering information and being the "eyes and ears" of the court during the planning and implementation period, nor does the appointment relieve the respondent board of any responsibility established by

any law, decisional or statute, or any order of this or any other court.

XIII. SUMMARY OF SCHEDULE

(a) Board must submit a new plan consistent with the above guidelines within forty-five (45) calendar days after this order. (Proposed changes in the new areas within the district must be submitted within 15 calendar days.)

(b) Court will rule on the proposed plan within five (5) calendar days after receipt.

(c) Final pupil assignment and other administrative guidelines must be communicated to parents, teachers, and administrators by August 26, 1980.

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FINDINGS OF FACT AND CONCLUSIONS OF LAW

Because of convenience and this court's desire to make the findings of fact and conclusions of law more

coherent and understandable to the parties and any reviewing body, the preceding narrative statement contains facts which are now adopted by this court and found as true, as well as the conclusions of law which have been made by this court. However, from those facts which were relied upon by the court in arriving at its opinion and the conclusions of law which were made by the court, certain selective findings of fact and conclusions of law are set forth in numbered form below, but are not to be considered as exclusive of the facts stated in the narrative opinion nor exclusive of any conclusions of law stated therein. This form of findings and conclusions is adopted solely for the purpose of convenience.

FINDINGS OF FACTS

The court further finds as facts:

1. That the complaint in this matter was filed August 1, 1963. That a mandate to desegregate the segregated schools of the district was issued May 12,

1970 and affirmed in 1976 by the California Supreme Court.

2. That on March 18, 1977, the respondents filed their response in the form of a plan which upon hearing was found by this court to be wholly ineffective in complying with the manddate. That such finding is set forth in the Minute Order of July 5, 1977.

3. That by the terms of that Minute Order respondent was directed to return to this court a new plan and to comply with the mandate and with terms certain.

4. That respondent filed its second plan on October 3, 1977, supplemented in December with a declaration by the board's president and further supplemented by the board's answers to 22 questions propounded by this court.

5. That on February 7, 1978, this court provisionally approved that plan, even though it found that it did not fully comply with the mandate or the orders subsequently issued in aid of the mandate. That this

partial approval required additional amendments to satisfy the terms of the mandate and that such amendments were to be filed at the end of 1978 for inclusion in the 1979-80 scholastic year, and to provide for desegregation of all schools and grades insofar as it was reasonably feasible.

6. That the partially approved plan was implemented in September 1978 after denial of a motion for stay by the California Supreme Court and the United States Supreme Court.

7. That no major incidence of violence accompanied the commencement of that desegregation plan in September 1978.

8. That subsequent thereto the board moved for and was given additional time to file its amendments and did file said amendments 12 days after the extended deadline.

9. That the hearing date on the amendments was set for June 4, 1979, but was extended to October 15, 1979, upon respondent's motion.

10. That on August 27, 1979, prior to any enrollment figures for the 1979-80 school year having been obtained and prior to any ethnic and racial survey having been made, the board and Bustop, a party herein, moved the court to (a) abandon all pairs and clusters of schools formed for desegregation purposes whose travel times exceed 60 minutes one way, and (b) abandon all junior high school desegregation configurations. That on September 24, 1979, again prior to the conduct of a racial/ethnic survey, the board adopted a resolution asking permission to abandon all mandatory provisions of its desegregation plan and substitute therefore an all-voluntary plan.

11. That the board again sought a continuance of the trial date to October 22, 1979, which was granted by the court.

12. That on October 17, 1979, the board filed its amendments to the plan of February 1978 which in effect sought to abandon all mandatory features of the plan in effect and substitute an all-voluntary plan.

13. That four weeks later, and four weeks after the commence ment of the hearing, another filing was made by the board explaining and enhancing its prior request to substitute an all-voluntar plan.

14. That on January 31, 1980, the board filed another document further explaining and enhancing its all-voluntary request.

15. That the plan of 1978, which was in operation and still is in operation, included 165 schools and designated 54 schools as magnets.

16. That the provisions of that plan included only grades 4-8 for mandatory assignment. That further expansion into more schools and more grades by mandatory assignment was abandoned by the board by its September 1979 motion.

17. That "white flight" or white withdrawal from the participating schools or the school system in the two years of operation of the 1978 plan totalled 13% above the historically normal demographic change and

was especially heavy in participating schools in the San Fernando Valley.

18. That some white flight was anticipated by the designers of the 1978 plan, but actual flight exceeded such plans and was exacerbated by the failure of the board in implementing the plan to follow its own rules and guidelines in such implementation.

19. That all desegregation planning must take into account the fact that respondent's school district is, in area, the largest public school district in the United States; it encompasses 710 square miles, including the cities of Los Angeles, Cudahy, Gardena, Huntington Park, Lomita, Maywood, Vernon and San Fernando. That the area includes portions of 18 other cities in Los Angeles County and substantial unincorporated territory.

20. That the entire school districts of Dayton, Denver, Pittsburgh, Cleveland, San Francisco and Boston could fit within the respondent's boundaries with space remaining.

21. That the respondent's district extends 58 miles in a northwest-southeast direction and is 30 miles from east to west. That the district is physically bifurcated by the Santa Monica mountain range which separates suburban San Fernando Valley from urban Los Angeles.

22. That seventy percent of the white children who attend school in the district live in the San Fernando Valley.

23. That the dividing mountain range is transversed by three major freeways which freeways are virtually the only routes used by the school district in transporting children from the north end of the district across the mountains to the south or vice versa.

24. That 1966 was the first year that the district made a survey of its racial and ethnic composition, and it showed a total pupil enrollment of 627,219 of whom 56% were white children, 21% were black, 18% Hispanic and 4% Asian.

25. That in 1968 the student census increased to 650,324 of whom 53% were white children. That by 1970 the white population had dropped to 49.9% and by 1977 had fallen further to 34%.

26. That the 1979 racial and ethnic survey showed a total student population of 542,583, of whom 27% were white, 24% black, 42% Hispanic and 6.7% Asian.

27. That the 1979-80 K-3 enrollment was composed of 19.6% white children and 53.6% Hispanic children.

28. That the 1979-80 Kindergarten enrollment was composed of 17% white children.

29. That demographic trends absent white flight are generally forecast to produce in five years a total white enrollment of 15-20% of the student body of the district.

30. That the plan of the respondents depends exclusively upon voluntary transfers of both white and minority children, requested and initiated by the parents of those children. That the respondent does

not expect to desegregate minority schools by this plan, but to provide a desegregated experience for some minority children.

31. That the history in this district of voluntary compliance with the mandate is one of failure in desegregating minority schools. That any success which may have been achieved is within its PWT program, which program is used exclusively by minority children to transfer on a daily basis from their minority schools to white schools, thus resulting in no desegregation of minority schools. That the history of magnet schools has also been one of failure to desegregate minority schools and has shown only limited promise in the creation of new desegregated schools.

32. That the all-voluntary plan proposed by the respondent board holds no promise of meeting the mandate in the desegregaton of minority schools.

33. That computer simulations were produced for 36 different plans and variations and were computed

on a district-wide school-by-school basis to determine the likely consequences of the approaches proposed to desegregate the district. That the results of these are set forth in the preceding opinion and adopted herein as findings of facts.

34. That no plan yet proposed is effective in reaching through reasonable and feasible means most of the minority segregated schools in the Los Angeles Unified School District.

35. That presently within the district there would be 283 minority schools, defined as having a student body 70% or more composed of minority children, if all students who reside within their attendance boundaries were to enroll in their home schools. That the total number of schools within the district which are opened to general attendance is 601. That within the 283 minority schools there would be 213 schools having a total minority census of 90-100%, 43 schools whose total minority count would be 80-89.9% and 27 minority isolated schools whose student body would

include 70-79.9% minority children. That even with the current voluntary and mandatory transfer programs in operation under the 1978 plan, the 1979-80 racial-ethnic survey showed that 234,134 of the district's 542,582 students attend schools where the student body is 90% or more composed of minority children.

36. That district-wide desegregation according to the definitions adopted herein and according to all other definitions proposed by parties or intervenors in this case, whether utilizing the multi-ethnic or combined minority concept, is impossible to achieve by reasonably feasible means because of distances, ratios between white and minority children and propensities to white flight.

37. That smaller areas within the district lend themselves to feasible and reasonable forms of desegregation.

38. That the racial and ethnic composition of the district lends itself to the use of two definitions of

desegregated schools depending upon the number of races/ethnicities in the school under consideration. Where that school, in its original form or as reconstituted by desegregation measures, has only whites and members of a single minority group, a bi-ethnic definition as set forth in the guidelines can be adopted; where such school contains whites and sufficient numbers of more than one minority group, the multi-ethnic definition can be adopted as set forth in the guidelines.

39. That all demographic projections forecast continuing change in racial and ethnic composition throughout the district which precludes stability of most desegregated schools for more than three years. That the steps ordered in the guidelines will exhaust the substantial relief of segregation possible through plans restricted within the boundaries of the Los Angeles Unified School District.

40. That of the 225,000 Hispanic children enrolled in the district, 85,000 are either limited in their

English language use or cannot use the English language (LES/NES).

41. That such children are concentrated in 93 racially isolated Hispanic minority elementary schools.

42. That such isolation is the result of segregation.

43. That such isolation inhibits the learning of the English language and contributes to harms of ethnic and racial segregation.

44. That of the 99,000 students of all ethnic and racial origins who are LES/NES, only 44,000 are afforded bilingual instruction.

45. That the above numbered paragraphs state facts specifically singled out from the narrative opinion which contains other facts which are included therein. That both are statements of facts found to be true by this court.

CONCLUSIONS OF LAW

The court finds that any conclusions of law stated in the preceding narrative statement of facts and law are conclusions of law found by this court.

I. It is the duty of the school board to desegregate its minority segregated schools, not just to provide integrated experiences to minority children.

II. The all-voluntary plan proposed by respondent Board does not meet the 1970 mandate of this court nor its July 5, 1977 minute order issued in aid of the mandate, nor does it comply with the July 28, 1976 judgment of the California Supreme Court in this case because:

A. It is not designed to desegregate any of the minority schools of the Los Angeles Unified School District.

B. It treats minority children with less concern than other children in the district.

C. It relies entirely upon voluntary compliance with the mandate by the children and their parents, which reliance is neither reasonable nor realistic.

D. Its provisions, viewed in light of the board's activities, do not demonstrate the board's commitment, even if given more time, to take additional steps to produce meaningful progress in the desegregation of the district's minority schools and the alleviation of the harms arising from segregation.

III. From March 1977, this court has, in its duty of overseeing the Los Angeles Unified School District's response to the requirement that it desegregate its schools, restrained its activities to either granting or denying approval of the requests made by the respondent board concerning its desegregation activities. This restraint was consistent with what the

court perceives as the law. **Crawford v. Board of Education,** 17 Cal.3d 280, 130 Cal.Rptr. 724, 551 P.2d 28 (1976); **Swann v. Charlotte Mecklenburg Board of Education,** 402 U.S. 1, 28, L.Ed.2d 554, 91 S.Ct. 1267 (1971).

IV. Such restraint was furthermore compelled by the sense of this court that the desegregation activities of the board involve immense efforts which affect large numbers of people in an important way and should be planned and implemented by the Board of Education which is the elected representative of those people. This political process should be a responsive instrument to produce mandated community change and, if followed in good faith and in pursuance to the mandate, should promise longer-lasting success than the imposition of a plan by a court which seeks a quicker and more efficient plan. **Crawford, supra,** 17 Cal.3d at 306 and **Swann, supra,** at 416.

V. However, the test of the continuation of this restraint is the court's appraisal of the school board's

commitment to the necessity of immediately instituting reasonable and feasible steps to alleviate school segregation and to produce meaningful progress in the elimination of segregated minority schools. **Crawford, supra,** at 307.

VI. Respondent board does not have a course of action which is designed to make meaningful progress in the elimination of harms arising out of minority segegated schools, and has not resolved itself to achieve any such plan in the near future. Because of that this court is left with no alternative but to intervene to protect the constitutional rights of minority children.

VII. When a local school board continues to default in its constitutional task, a court may no longer be justified in relying upon the board to implement programs which hold a reasonable promise for securing the rights of minority children. **Crawford, supra,** at 307.

VIII. To comply with the order of this and the California Supreme Court, the Board should, and will be ordered to, prepare a desegregation plan pursuant to the guidelines set forth above in the narrative statement of facts and conclusions forming the opinion and which are set from (sic) on page 77 to 87 of this document.

IX. Any definition of a desegregated school has practical meaning depending upon the available numbers in each racial and ethnic group, and depending upon the use to which the definition is put.

X. The language handicap suffered by Limited English Speaking (LES) and Non-English Speaking (NES) students, the chronic overcrowding in Hispanic schools, and the segregation of Hispanic children cannot be considered separately. Any acceptable desegregation

plan must address all three in a way that promises a comprehensive solution.

Dated: July 7, 1980.

/ss/EGLY
PAUL EGLY, Judge of the Superior Court

SUPERIOR COURT, ORDER AFTER TRIAL UPON PLAN II AND THE PROPOSED ALL-VOLUNTARY PLAN, DATED JULY 7, 1980

[58 C.T. 17430-17446]

The Judgment and Mandate, previously issued in 1970 by this court to desegregate the Los Angeles Unified School District was affirmed by the California Supreme Court on June 28, 1976. This court previously issued its Minute Order, dated July 5, 1977, rejecting respondents' plan for integration filed on March 18, 1977 (Plan I). Following the submision by respondent of a second plan (Plan II) and, in response to the mandate and to the July 5, 1977 Minute Order, this court entered its Minute Order, dated February 7, 1978 conditionally approving implementation of the board's plan to put it into execution in September, 1978 and requiring the board to make additional effort to add necessary amendments and modifications to its plan, or otherwise demonstrate why they were not required

to meet the mandate to desegregate its minority segregated schools.

Upon trial of Plan II and the necessary modifications and amendments thereto, the board, joined by intervenor Bustop, requested that the court permit the board to abandon all mandatory features of its Plan II and, instead, implement a third plan, which totally relies on voluntary means of compliance (the proposed all-voluntary plan).

The matter of the board's compliance with the mandate through Plan II and modifications thereto and the proposed all-voluntary plan, came on for trial before this court, without a jury, between October 22, 1979 and April 11, 1980, in Department 3 of this court, Hon. Paul Egly, Judge presiding.

Witnesses were sworn and examined and documentary evidence was introduced on behalf of the respective parties. After the evidence was closed, the cause was submitted to the court for decision, and after deliberation thereon, the court rendered its

intended decision on May 19, 1980. At the court's direction, petitioners filed a "Proposed Findings of Fact and Conclusions of Law" and a "Proposed Order After Trial Upon Plan 2 and the Proposed All-Voluntary Plan." On June 19, 1980, the parties filed their objections to the proposed Findings of Fact and Conclusions of Law and their proposed counter-findings of fact and conclusions of law. On June 30, 1980 a hearing was held on the aforedescribed Proposed Findings of Fact and Conclusion of Law; the objections thereto, and the proposed counter-findings of fact and conclusions of law. They were submitted to the court for its decision thereon. The court being advised in the premises, made and filed its Findings of Fact and Conclusions of Law, constituting the decision of the court. Pursuant thereto and in accordance therewith, it is:

ORDERED, ADJUDGED AND DECREED that:

1. The board is now ordered to prepare a plan pursuant to the schedule herein, which will be

instituted in September, 1980 for the school year 1980-81.

2. The board is further instructed that time is important to all the parties, the children and the parents of the district, as well as to this court. For that reason development of this plan shall have first importance in all business coming before the board. The staff of the district shall be instructed by the board that their first priority shall be the development and implementation of a plan consistent with these guidelines.

3. The board is ordered to formulate and implement, subject to the approval and supervision of this court, a plan of desegregation consistent with the guidelines attached hereto and incorporated herein as if fully set forth.

4. The plan shall, insofar as external factors will allow, desegregate as many schools as is possible.

5. To accomplish desegregation within the guidelines, the district shall be divided into eleven

areas as set forth in the map attached hereto, or as adjusted, amended or further set forth by subsequent order of this court upon motion of any of the parties.

6. The board will be allowed to devise individual desegregation plans for each area as long as all are consistent with this order. Community input is encouraged to allow choice of forms of desegregation techniques.

7. The present district-wide magnet programs will be allowed to continue provided they meet these guidelines and are desegregated as defined herein. District-wide magnets which are presently not desegregated shall be terminated forthwith, save for those in areas herein numbered 7, 8, 9, 10 and 11.

8. The PWT program may continue. PWT participation may be offered only after mandatory student assignments have been made, and will be available only to those students who are not mandatorily assigned. No student shall be exempted from mandatory assignment because of his acceptance into

the PWT program. Neither shall any PWT student be counted as a resident for purposes of exempting the receiving school from participation in mandatory desegregation programs. Further, no PWT student shall be permitted to segregate any school that would otherwise be desegregated.

9. The board is directed to prepare an inventory as to each school included in the desegregation process and to make periodic evaluations of the progress or non-progress of the integration process so that the board can make a reasoned judgment, subject to approval by the court, upon the occurrence of those changes in demography, to continue that school in its present configuration or to again reconstitute it.

10. To insure compliance with the guidelines and to report to the court periodically as to whether the guidelines are being complied with, the court appoints Edward Hamilton and Francine Rabinovitz as special monitors, whose duties are set forth in this order.

11. The monitoring committee will continue but will report to the court's special monitors.

12. The court makes no further order with respect to Racially Isolated Minority Schools (RIMS) except as set forth in the guidelines herein and continues such existing orders as are now in effect pending further hearing thereon.

13. The court now adopts the present standards as set forth in Article 2 of Chapter 7 of the Education Code beginning with Section 52160 and continuing through section 52179 with, all the amendments now presently in force, as the standard for alleviation of minority students with a foreign language as their primary language. Any subsequent diluting of those standards which would provide less bilingual instruction in Los Angeles by reason of any act of Legislature shall not diminish this bilingual instruction requirement without further order of the court.

14. The respondent board shall develop its student assignment plans so as to cluster LES/NES students in

the desegregation plan to insure that they are represented in sufficient numbers in the receiving school or in their home school as to require bilingual instruction under **Chacon.** Respondent shall make provisions so that LES/NES students are not assigned in individual classes primarily with lower achieving non-LES/NES students.

15. The respondent shall semi-annually collect and publish a comprehensive collection of data on LES/NES bilingual teachers by grade level, pairs and clusters, areas and language so that pupils and teachers can be properly identified and placed.

16. The respondent board shall, considering but not limiting itself to the remedies suggested by petitioners, formulate and adopt further remedies to enhance and accelerate the process of identification, training, remuneration and assignment of bilingual instructional personnel and it shall meet and confer and negotiate upon such remedies, as appropriate under the collective bargaining agreement, with

intervenor United Teachers of Los Angeles (UTLA). Failing agreement, the court reserves jurisdiction to make such other and further orders as are necessary to alleviate the described harms to NES/LES students within the District.

17. The board shall, in formulating all plans under this order, address the language needs of LES/NES students, chronic overcrowding in Hispanic schools, and the segregation of Hispanic children as an indivisible set of problems, and shall propose plans which promise a comprehensive solution to all three.

18. The board shall make provision so that in the schools which participate in desegregation the individual classes therein are not permitted to be segregated.

DATED: _____, 1980

PAUL EGLY
Judge of the Superior Court

GUIDELINES FOR THE FORMATION OF AREA DESEGREGATION PLANS

* * *

[The portions of the Superior Court's Opinion set forth at pages 433-451 of this Joint Appendix are restated here.]

* * *

Dated: July 7, 1980.

/ss/EGLY
PAUL EGLY,
Judge of the
Superior Court

COURT OF APPEAL, ORDER ON PETITION FOR WRIT OF SUPERSEDEAS ON PETITION FOR WRIT OF MANDATE, DATED AUGUST 6, 1980

THE COURT:*

In the Los Angeles Board of Education desegregation cause, **Crawford v. Board of Education** (1976) 17 Cal.3d 280, the California Supreme Court in 1976 affirmed the trial court judgment finding both de jure and de facto segregation in the schools operated by the Los Angeles Board of Education, reversed the trial court's order defining a desegregated school in terms of specific racial and ethnic percentages of white and non-white pupils, and remanded the cause to the trial court for preparation and implementation of "a reasonably feasible desegregation plan . . . to alleviate segregation." (pp. 285-86.) The court noted that the Constitution does not require a school board to achieve

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*Before Roth, P.J., Fleming, J., and Compton, J.

any particular racial or ethnic balance or even an approximate racial or ethnic balance, but merely requires reasonably feasible steps to alleviate school segregation. The court pointed out a number of the tools which are available to the trial court to accomplish this. One of these is busing (pupil reassignment and pupil transportation).

On remand post-judgment hearings were held in the trial court, and the latter adopted and put into effect in 1978 a plan which included mandatory reassignment of pupils attending grades 4 through 8 in every school whose white enrollment exceeded 70 percent. Thereafter on 7 July 1980 the trial court issued a further order which is the subject of the petition for writ of supersedeas. That order established 11 subareas within the Los Angeles Board of Education district and directed that schools be desegregated this fall to the fullest extent possible within each subarea for grades 1 to 9, with grades 10, 11, and 12 to be desegregated one-a-year thereafter.

The court's order declared that a desegregated school is one possessing a plurality of white pupils not in excess of 5 percent over the largest of any of the minority groups. Groups are classified as white, black, Asian, and Hispanic. (The court also declared that a desegrated school with only two racial groups could run from 40 to 60 percent white, but since we are informed by the Board of Education no such schools exist, that part of the order is without practical effect.) The Board of Education seeks a writ of supersedeas to stay enforcement of this order pending appeal.

I.

PETITION FOR WRIT OF SUPERSEDEAS

Certain factual anomalies arise as a result of the length of time this cause has been pending. When the cause was first brought in 1963, the composition of the district was over 60 percent white. The cause was tried and an order entered in 1970 based on 1968

statistics showing a pupil composition of 54 percent white. The 1970 order required desegregation between majority whites and minorities. Meanwhile, however, the white component in the school system declined, and in 1979 the white component within the school district had fallen to 27 percent and the white component of the kindergarten class to 17 percent. Projections at the hearing indicate that the school district in 1987 will be 14 percent white. Of the 11 areas created by the court, areas 1, 2, and 3 possess white majorities of 59 percent, 60 percent, and 53 percent, respectively. Areas 4, 5, 6, and 7, located in the central, western, and southern parts of the school district, are racially mixed among the four groups, none of which has a majority of pupils from any group. Area 8 has a black majority of 64 percent, area 9 is almost equally Hispanic and black (49 percent and 46 percent, respectively), and areas 10 and 11 have Hispanic majorities of 87 percent and 76 percent.

The trial court's order purports to require allocation within areas of pupils among schools on the basis of four racial groups in order to achieve the goal that no school will have a white plurality in excess of 5 percent over the next largest group.

The Board of Education seeks to stay the trial court's order by writ of supersedeas pending appeal, claiming (1) the order is automatically stayed by Code of Civil Procedure section 916 on the filing of an appeal by the Board, and the trial court is without authority under Code of Civil Procedure section 1110(b) to put its order into immediate effect; (2) the Board has been given insufficient time to translate the superior court's order into a workable desegregation plan for this fall; and (3) the court's rigid and fixed definition of a desegregated school is contrary to the mandate handed down by the Supreme Court in its 1976 opinion and will require busing to and from schools which are already desegregated under any reasonable definition of desegregation.

1. We do not believe Code of Civil Procedure section 916 has any great relevancy to a cause such as this, where final judgment has already been entered and which has been remanded to the trial court merely for preparation and implementation of a post-judgment plan to put into effect a decision already arrived at by the Supreme Court. Under such circumstances we do not believe section 916 necessarily controls. Code of Civil Procedure section 1110(b), relied on by the court as authority for the trial court's order, while somewhat contrived in its application, sufficiently serves as a basis for putting the trial court's order into immediate effect.

2. Nor are we impressed by the Board's argument that there is insufficient time to put the court's order into effect. This cause has been pending for 17 years, four of them on remand in the trial court. The elements which constitute the cause are, and have been, familiar to all concerned for many years. Were

we to accept the argument that changing circumstances make it difficult to implement a pupil assignment and pupil transfer order in a rapidly evolving area such as Los Angeles, it would never be feasible and practicable to put such an order into effect.

3. We think, however, the Board's claim that the trial court's order is contrary to the Supreme Court's mandate in **Crawford** has merit. The trial court's order and guidelines purport to require and put into effect a rigid definition of segregation which appears contrary to the admonition and remarks made by the California Supreme Court in reversing the rigid definition of segregation which had been adopted by the trial court in its original order in 1970. Under the not-in-excess-of-5 percent white plurality definition of

the trial court [1] extensive pupil reassignment and pupil transportation will be required in schools which are already desegregated under any reasonable standard and the same will be required in 32 magnet schools presently in operation which are also desegregated under any reasonable standard. (Petitioner has listed

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[1] "I GROUP CLASSIFICATIONS

"The classifications for desegregation shall be based on identification of the predominant ethnic and racial character of each student and shall be limited to one of four groups: (1) Hispanic; (2) white; (3) black; and (4) other minorities, of whom Asians/Pacific Islanders constitute a large majority, but in which group other minorities are included.

"II DEFINITION OF A DESEGREGATED SCHOOL

"The court adopts as a working definition of a desegregated school containing only two racial/ethnic groups, one with a simple majority of white students, plus or minus 10%. In those areas where there are sufficient numbers of minority groups and the practicalities of the situation make it reasonable and feasible, the court adopts a definition of a multiethnic desegregated school which would require a plurality of white children, plus or minus 5%, over the largest of any of the minority groups present. The white complement in a desegregated school may not exceed 10% more than a majority in a biethnic school or 5% more than a plurality in a multiethnic school."

these schools at pages 32, 35, 36, and 37 of its petition for supersedeas.) It appears to us the trial judge has fallen into the same error made by the earlier trial judge in this cause and the same error made by the identical trial judge at bench in **NAACP v. San Bernardino Unified School District** (1976) 17 Cal.3d 311, 314, 325-327, where the California Supreme Court also reversed the trial court for establishing set racial or ethnic percentages for a plan of desegregation.

It also appears to us that, in addition to the error of set, fixed percentage standards for desegregation, the trial court exceeded its mandate by seeking to bring about integration among the four groups in terms of specific racial and ethnic percentages, a proposal, which if perfected, would require massive amounts of additional pupil reassignment and pupil transportation to achieve racial balance among four groups in each school. Such an objective is unwarranted by the mandate of **Crawford**, which spoke in terms of alleviating desegregation between whites and all

minority groups and rejected any constitutional requirement for "racial or ethnic balance." (p. 303.) The underlying constitutional basis which compels removal of legal school segregation is grounded upon past discrimination practiced by whites against minority groups. Nothing in **Crawford**, or any other case of which we are aware, suggests that any past segregation has existed by reason of legal discrimination by one minority group against another minority group. Hence the discrimination which is the subject of constitutional legal redress is that of whites against minorities. We conclude that the constitutional requirement for elimination of segregation by reason of past discrimination is to be evaluated in terms of whites and all minorities considered as a group. **Crawford v. Board of Education** (1976) 17 Cal.3d 280, 287, 302, 303, 304; **NAACP v. San Bernardino Unified School District** (1976) 17 Cal.3d 311, 314, 326, 327.) In this respect the trial court's order may have exceeded its authority under **Crawford**, and we conclude that

that part of its order requiring fixed ratios and quotas of pupils allocated among four racial groups should be stayed.

Having said this, we add that we think the trial court's division of the Los Angeles School District into 11 subareas is a positive step in the creation of a workable and practical plan for alleviation of existing segregation to the extent feasible within the Los Angeles School District pursuant to the mandate of the California Supreme Court in **Crawford.** To the extent it cuts geography down to size, it reduces involuntary busing. The subarea plan has the further advantage of keeping young pupils in their own home areas and permitting them to continue their education in locations with which they have some identification and familiarity. We therefore decline to stay other parts of the trial court's order.

II.

PETITION FOR WRIT OF MANDATE

The Board also attacks the order of the trial court denying the Board's petition to annul all pupil reassignment and mandatory transportation within the Los Angeles School District on the ground that the recent amendment to article 1, section 7(a) of the California Constitution removes authority from the California courts to order such transportation in connection with a plan of desegregation. The constitutional amendment, however, specifically states that it does not apply to pupil assignment or pupil transportation ordered by the courts to remedy violations of the 14th Amendment to the United States Constitution. [2]

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[2] **§7. DUE PROCESS AND EQUAL PROTECTION; PUPIL SCHOOL ASSIGNMENT OR TRANSPORTATION; PRIVILEGES AND IMMUNITIES**

(a) A person may not be deprived of life, liberty, or property without due process of law or denied equal protection of the laws; provided, that nothing (continued)

Plaintiffs attack article 1, section 7(a) on the

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contained herein or elsewhere in this Constitution imposes upon the State of California or any public entity, board, or official any obligations or responsibilities which exceed those imposed by the Equal Protection Clause of the 14th Amendment to the United States Constitution with respect to the use of pupil school assignment or pupil transportation. In enforcing this subdivision or any other provision of this Constitution, no court of this state may impose upon the State of California or any public entity, board, or official any obligation or responsibility with respect to the use of pupil school assignment or pupil transportation, (1) except to remedy a specific violation by such party that would also constitute a violation of the Equal Protection Clause of the 14th Amendment to the United States Constitution, and (2) unless a federal court would be permitted under such federal decisional law to impose that obligation or responsibility upon such party to remedy the specific violation of the Equal Protection Clause of the 14th Amendment of the United States Constitution.

Except as may be precluded by the Constitution of the United States, every existing judgment, decree, writ, or other order of a court of this state, whenever rendered, which includes provisions regarding pupil school assignment or pupil transportation, or which requires a plan including any such provisions shall, upon application to a court having jurisdiction by any interested person, be modified to conform to the provisions of this subdivision as amended, as applied to the facts which exist at the time of such modification.

In all actions or proceedings arising under or seeking application of the amendments to this subdivision proposed by the Legislature at its 1979—80 Regular Session, all courts, wherein such actions or (continued)

ground that it is unconstitutional under the federal constitution as an attempt to reimpose segregation and on the further ground that in any event the article does not apply to **Crawford** in that this cause involves de jure segregation, which is clearly a violation of the 14th Amendment redressable by the courts through use of pupil assignment and pupil transportation. (**Columbus Board of Education v. Penick** (1979) 443

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proceedings are or may hereafter be pending, shall give such actions or proceedings first precedence over all other civil actions therein.

Nothing herein shall prohibit the governing board of a school district from voluntarily continuing or commencing a school integration plan after the effective date of this subdivision as amended.

In amending this subdivision, the Legislature and people of the State of California find and declare that this amendment is necessary to serve compelling public interests, including those of making the most effective use of the limited financial resources now and prospectively available to support public education, maximizing the educational opportunites and protecting the health and safety of all public school pupils, enhancing the ability of parents to participate in the educational process, preserving harmony and tranquility in this state and its public schools, preventing the waste of scarce fuel resources, and protecting the environment.

U.S. 449; **Dayton Board of Education v. Brinkman** (1979) 443 U.S. 526.) Plaintiffs also cite the original findings, conclusions, and judgment of the trial court in this cause adjudicating de jure segregation, and they point to the statement in the California Supreme Court's opinion on appeal declaring that "[t]he findings in this case adequately support the trial court's conclusion that the segregation in the defendant school district is de jure in nature." (**Crawford**, p. 235.)

The opinion of the California Supreme Court in this cause is somewhat ambiguous, in that its main element consists of elimination of racial isolation in California schools regardless of the cause and regardless of de jure or de facto segregation, and the consequent duty imposed by the court on California school boards under the California Constitution to accomplish this goal. On an application for peremptory writ we think we are governed by two principles: (1) A provision of the California Constitution is presumptively constitutional until declared otherwise

in a plenary proceeding before a California appellate court, the California Supreme Court, or the United States Supreme Court. (2) Such being the case, the critical determination here is whether the **Crawford** decision involves de jure rather than de facto segregation. Since the California Supreme Court's opinion said it did involve de jure segregation we will assume it did until we are told otherwise, or until we have examined the issue in a plenary hearing. On the basis of this assumption mandatory pupil assignment and mandatory pupil transportation are available at bench as a remedy for unconstitutional racial segregation. We think any general overturning of existing busing orders, if such is required by the constitutional amendment of article 1, section 7(a), should await an authoritative determination on the merits. We, therefore, deny the petition for writ of mandate, but by separate order we accelerate the appeal or appeals presently filed in this cause from the order of 7 July 1980.

III.

SUPERSEDEAS-STAY ORDER

Pending further order of this court, Item 3 of the trial court's order of 7 July 1980 is stayed to the extent it incorporates those parts of guidelines I and II which define a multi-ethnic desegregated school as one requiring a plurality of white pupils not in excess of 5 percent over the next largest ethnic group in the school. The trial court's order and guidelines are stayed to the extent they define desegregation of schools in terms of percentages and quotas and to the extent they require anything more in a particular school than substantial desegregation (in general, rough equality between majority and minority groups to the extent reasonably feasible) between the white component in the school and all minority groups considered as a whole within the school. The order and guidelines are further stayed to the extent they require pupil reassignment or pupil transportation to or

from a presently substantially desegregated school. In other respects the petition for writ of supersedeas-stay is denied.

IV.

DISPOSITION

The petition for writ of mandate is denied.

Let a writ of supersedeas issue in accordance with this order.

SUPERIOR COURT, ORDER REQUESTING IMPLEMENTATION OF DESEGREGATION PLAN IN AID OF WRIT OF MANDATE PREVIOUSLY ISSUED WITH EXHIBITS A AND B, DATED AUGUST 25, 1980 (EXHIBITS OMITTED)

Pending possible further order of the Supreme Court of California, this order is issued to give both the Respondent Board and the children of this District an opportunity to adequately prepare for the commencement of the school year on September 16, 1980.

Any further delay by this court to await the California Supreme Court's order would not be in the interests of the residents of this District.

Reference is made to this file and its numerous prior orders directed to the Respondent ordering it to prepare adequate plans for the desegregation of the Los Angeles Unified School District. Specific reference is made to this court's order of July 7, 1980 in which the Board was ordered to prepare a plan in

conformity with directions contained therein; and further to this court's order of August 8, 1980 containing an invitation to the Respondent to submit alternate plans consistent with the District Court of Appeal order dated Auqust 6, 1980. Respondent having not furnished a plan and having indicated that it could not do so unless given more time, this court as an alternative, prepared a tentative plan which would allow the Los Angeles Unified School District to be prepared for the commencement of school on September 16, 1980. That tentative plan was circulated to the parties, including the Respondent. After receiving the comments of the parties, and comments from the community, and having had no other plan submitted by respondent or other parties, and after due consideration and in light of the imminence of the commencement of the 1980-81 school year:

IT IS ORDERED THAT THE RESPONDENT BOARD SHALL:

1. Implement forthwith the order of July 7, 1980; the memorandum order of the Court of Appeal, Second District, dated August 6, 1980; this court's order in aid thereof, dated Auqust 8, 1980 and the contents of Exhibit A attached hereto. Such implementation shall commence forthwith so as to be in place and capable of operation by September 16, 1980 and shall remain implemented until further order of this court.

2. To issue forthwith all necessary orders, directions and commands to all persons under the supervision, control and direction of itself, including employees, to carry out the terms of this order.

3. To take no action, either collectively or through the agency of any single member

Thereof, to hinder, delay, or obstruct this order for the purpose of thwarting it.

4. To issue forthwith such necessary commands, orders and directions to all persons under its control, direction and supervision, including employees, to take no action as employees or agents of the Board which actions are designed to hinder, delay or obstruct the implementation of this order.

This order is issued with the knowledge that this court is uncertain of the contents of any order to be made by the Supreme Court of the State of California. This court requested on August 18, 1980, the Respondent Board to participate in contingency planning in the event that the Supreme Court changed the definition of desegregation adopted by the Appeal Court. On August 20, 1980, the Board through its attorneys notified this Court of its unwillingness to do so. Therefore, this Court is faced again with an unsought planning task, and now orders the Board to

give such necessary instructions to its staff to require it to cooperate with the representatives of this Court in the preparation of such contingency plans.

The Sheriff of this county is ordered to serve a certified copy of this order upon the Clerk of the Respondent Board, and the counsel for Respondent is ordered to make known the contents herein to each individual member of Respondent Board.

DATED: August 25, 1980

/ss/Egly
Judge of the Superior Court

Attached: Exhibits "A" and "B" (omitted here).

COURT OF APPEAL, ORDER, DATED SEPTEMBER 4, 1980

THE COURT:*

This court issued its order on August 6, 1980, which, among other matters, stayed pending appeal the trial court's order and guidelines of July 7, 1980, "to the extent they require pupil reassignment or pupil transportation to or from a presently, substantially desegregated school." Thereafter the Supreme Court on August 27 denied a hearing on petitions to vacate this court's stay order. Meanwhile, the trial court issued an order on August 25, which, among other items, required mandatory pupil reassignment and pupil transportation to and from 20 schools which are now, and have been, substantially desegregated by voluntary means, principally issuance of voluntary permits with transportation (PWT).

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* Roth, P.J.; Fleming, J.; Compton, J.

On August 28 the Board of Education, and on September 2 Better Education for Students Today (BEST), petitioned this court, among other items, to secure compliance with our stay order of August 6, 1980 by specifically staying compulsory pupil reassignment and compulsory pupil transportation in schools that had already become substantially desegregated by voluntary means.

In this court's view, the fact that a school has been desegregated by voluntary means and through use of tools other than compelled pupil reasssignment and compelled pupil transportation does not detract from the validity or reality of a school's desegregation. Indeed, it would seem axiomatic that in dealing with such an explosive and emotional issue as forced busing, use of voluntary means of compliance to achieve desegregation is infinitely preferable to use of involuntary means, and that a desegrated school is a desegrated school whether desegregation has resulted from changing residential patterns, from voluntary

means, or from involuntary means. Such is our reading of **Crawford v. Board of Education** (1976) 17 Cal.3d 280, which points to the variety of tools available to achieve desegregation. (pp. 303-305.)

This court's order of August 6, 1980, is specifically supplemented to stay required pupil reassignment or required pupil transportation to or from the following presently substantially desegregated schools:

	School	Total Enroll-Ment	Per-cent White	Percent Minority
1.	Calahan Elem.	388	61.8	38.1
2.	Garden Grove Elem.	166	61.4	38.6
3.	Tulsa Elem.	675	60.1	39.8
4.	Limerick Elem.	925	59.3	40.6
5.	Gledhill Elem.	571	59.0	40.9
6.	Oso Elem.	178	58.4	41.6
7.	Bellagio Elem.	475	58.1	41.8
8.	Rio Vista Elem.	433	57.9	42.0
9.	Rhoda Elem.	425	56.4	43.5

	School	Total Enroll-Ment	Per-cent White	Percent Minority
10.	Oakdale Elem.	419	55.6	44.3
11.	Hesby Elem.	198	55.5	44.4
12.	Colfax Elem.	319	54.8	45.1
13.	Bertrand Elem.	385	53.5	46.4
14.	Anatola Elem.	326	48.7	51.2
15.	Northridge JHS	1,431	58.4	41.5
16.	Emerson JHS	1,512	57.9	42.0
17.	Portola JHS	798	57.6	42.3
18.	Revere JHS	2,035	57.3	42.6
19.	Mulholland JHS	898	53.4	46.5
20.	Madison JHS	1,984	50.0	50.0

For reasons not apparent to us the trial court's order of August 25 directed the school board "[t]o take no action, either collectively or through the agency of any single member thereof, to hinder, delay, or obstruct this order for the purpose of thwarting it." If

the foregoing language simply requires the school board and its employees to comply with the law and not engage in obstruction of justice, the language is redundant. It is to be presumed the school board will not engage in illegal or contumacious conduct. If, on the other hand, the language has as its purpose curtailment of public statements by members of the school board and its employees which are critical of the trial court's rulings, it is overbroad. The court has no authority to prohibit expressions of views on public matters or expressions of dissatisfaction or disagreement by members of the school board and its employees with the rulings of the trial court, this court, or any other court. (**Wood v. Georgia** (1961) 370 U.S. 375.)

Subject to the requirements of constitutional and statutory law the school board has a responsibility to administer the schools under its jurisdiction and to employ its resources to achieve quality education for all pupils. (Ed. Code, § 35010.) As long as the school

board appears to be attempting to meet its responsibilities to the best of its ability, unnecessary intervention by the courts is to be avoided. At bench, the school board contends that the broad mandate given by the trial court to .ts special monitors is unwarranted interference with the board's freedom of action and constitutes an unlawful delegation of judicial authority to the monitors.

The trial court empowered the monitors to do the following:

> "(a)(i) Observe on behalf of the court all planning, budgeting, administrative, and other activities undertaken in preparation and implemation of the new plan.
>
> "(ii) Provide, subject to the parties' access to the court, immediate interpretations of this order where they may be necessary for planning and implementation purposes.
>
> "(iii) Require and set time limits for receipt from the board and/or district staff of any data, special analyses, internal reports and memoranda, or other information necessary, in their judgment, to effective performance of the responsibilities given them in this order. This includes the authority to convene meetings of named district staff personnel.

"(iv) Receive, comment upon, and transmit to the court all progress reports, applications for change, and other communications from board to court concerning desegregation issues.

"(v) Assess and make recommendations to the court concerning the merits of all proposed plans, implementation schedules, financial allocations, and other steps suggested by the board to carry out this order. The special monitors are authorized to immediately and ex parte recommend to the court delay of any board or staff action and insist that it be submitted to the court for review if in their judgment the action would result in noncompliance, undercompliance, or other impairment of the effects of these guidelines.

"(vi) Prepare independent reports and proposals to the court.

"(b) The Board is directed to include the special monitors in all activities significant to preparation and execution of the desegregation plan. A showing that the special monitors have not been consulted to the degree they think necessary in order to offer sensible advice to the court will be sufficient ground for the denial of any proposed change or other action requested by the board." (Italics added.)

Subdivision (b) of the order is especially onerous in that it gives the monitors power to veto any proposal

by the board when they feel that they have not been adequately consulted. Likewise subdivision (a)(iii), which authorizes the monitors to require and set time limits for the board to provide them with information and which authorizes the monitors to issue orders to school board personnel, is an unwarranted invasion of the board's prerogatives and an unlawful delegation of judicial authority. Those parts of the order which go further than empowering the monitors to observe the board's activities and make reports and recommendations to the trial court are in excess of the court's authority, and are hereby stayed.

In all other respects the petitions for extraordinary relief are denied.

SUPERIOR COURT, ORDER, DATED SEPTEMBER 12, 1980, SUPPLEMENTING PRIOR ORDER OF SCHOOL AND PUPIL ASSIGNMENT, DATED AUGUST 25, 1980, AS MODIFIED BY THE COURT OF APPEAL ORDER DATED SEPTEMBER 4, 1980

Following this court's oral request on September 5th and 8th that the respondent Board develop and communicate to the court reasonably feasible plans for desegregating the 14 racially isolated minority schools left segregated as a result of the Order of the Court of Appeal, the respondent Board has filed several declarations and requests that it be relieved of this responsibility for the various reasons given in those filings. The court is sympathetic with the amount of work and the number of readjustments which must be made by the respondent in response to each new court decision, whether by this court or by an Appellate Court, which may change plans and dispositions made and relied upon by the parties. While this is probably inevitable in any complex legal action, the results are

uncomfortable. This court is especially sympathetic to the beneficiaries of the Board's trust, the children of all races and ethnicities, who are probably as confused and bewildered by the accounts of these legal actions as are their parents and communities.

However, the fact remains that unless some action is taken by the Board or this court to maintain efforts to desegregate those 14 minority schools, some 12,895 minority children in minority segregated schools will again be denied their constitutional right to attend a desgregated school. This court feels it necessary to remind the respondent Board that the basic purpose of this case is to enforce that constitutional right.

The respondent Board, having indicated that it cannot make provision this year for those children, has again and without sufficient reason defaulted in its duty toward those children. The court is again left with the task.

This latest delay fits into a consistent pattern of Board behavior which attempts to evade the

responsibility established by the mandate of this court and the Supreme Court and explains much about why this case has been in litigation for 17 years, and in the remedial phase for four years. Despite repeated and emphatic statements by this court and the Court of Appeal that the desegregation measures ordered on July 7 and August 25, other than those stayed by the Court of Appeal, must be carried out by September 16, the respondent Board has spent the entire period since September 4, the date of the Supplemental Order of the Court of Appeal, explaining why it does not have the time to make the adjustments requested by this court.

The intervention of this court meets the test set forth by the California Supreme Court as stated in **Crawford v. Board of Education** [17 C. 3d 280 at 307]. That test authorizes such intervention where a court finds that a local school board has not moved immediately to implement reasonable and feasible steps to alleviate school segregation. In this

circumstance, said the Supreme Court, "the court is left with no alternative but to intervene to protect the constitutional rights of minority children."

Yet, even though the problem of shortness of time is in large part the result of the Board's behavior, it is now real with respect to the revisions in the August 25 school groupings necessary to accommodate the changes made by the Court of Appeal. The court's duty extends to the protection of all the children in those groupings from administrative problems that may attend an attempt to plan the pupil exchange arrangements necessary to operate the revised groupings ordered herein before September 16. Accordingly, for the 45 schools involved in the 12 maintained and revised clusters discussed below and only for those schools and clusters the following procedures shall be permitted:

1. Whenever feasible, each grouping shall begin full operations on September 16. This should be particularly feasible

where no schools have been added to a grouping and schools have already worked together to evolve new pupil exchange arrangements.

2. Where such immediate operation is not feasible, the respondent Board may, at its discretion invite students to report to their neighborhood schools on September 16, pending reassignment, or delay the opening of these schools for a period consistent with the terms of this Order, or adopt other procedures to assure proper treatment of students during any time that may elapse before their permanent assignment within the school groupings.

3. The respondent Board is directed to transmit to this court at or before 10:00 a.m. on September 17 proposals for pupil exchange within the revised

groupings that are consistent with those established for all other mandatory groupings in the District.

4. After approval or amendment of these proposals by this court, the appropriate plans for transportation, teacher assignment, and other necessary admisistrative activities shall be immediately commenced and completed in sufficient time for the reassignment of all students in these revised groupings into the attendance patterns required by the approved pupil exchange arrangements no later then Monday, September 29.

5. Beginning no later than Monday, September 29, all students in these clusters will attend the schools provided for in the revised groupings

and the pupil exchange arrangements through which they are implemented.

This court is also mindful of the need to safeguard the interests of the minority students who will be transported to schools outside their neighborhoods either to relieve overcrowding in their home schools or in response to their applications for Permits With Transportation (PWT). This concern is reflected in the actions ordered below. All of the cluster revisions and pupil assignments so ordered have been designed to assure: (a) full accommodation of students from overcrowded schools listed in the respondents Board's submission of September 11; (b) no displacement of returning PWT students from any school not included in mandatory grouping; (c) no reduction in the total number of PWT openings in the directly or indirectly affected schools; (d) substitute placement of all new and returning PWT students previously scheduled to attend the schools newly added to groupings into PWT assignments in similar schools.

THEREFORE IT IS ORDERED that the Order of this Court of August 25, as amended by the Court of Appeal on September 4, is further amended so that the following school clusters shall be maintained, revised, or supplemented as set forth below so as to afford 12,895 minority children their constitutional rights as required by law.

AMENDED SCHOOL GROUPINGS

Court Area I

The September 4 Court of Appeal Order exempting one school from each of the three-school clusters intended by the August 25 Order of this court to desegregate Dyer and Gridley elementary schools does not substantially impair the desegregation capacity of the remaining schools in each cluster. Thus, no further change will be made in their makeup, and they will operate as two pairs.

The September 4 Court of Appeal Order exempting Tulsa and Gledhill elementary schools from the five

school cluster in which they were placed by the August 25 Order also does not substantially impair the desegregation capacity of the remaining schools in that cluster. Thus no further addition will be made to their makeup, and they will operate as a triad.

1. Cluster desegregating San Fernando Junior High School.

This cluster is designed to desegregate a racially isolated minority school (San Fernando) which had a 1979-80 resident area population of 1,725 students, of whom 1,464 (85%) were minority. The effects of the September 4 Supplemental Order of the Court of Appeal upon the plan for cluster operation made pursuant to the August 25 Order of this court, are the following:

— Removal of one 1,214 pupil school (Northridge) containing a 1979-80 resident area population made up of 70% white students and 30% minority students.

— Reduction in the total share of white students in the cluster from 52% to 46%.

Desegregation of San Fernando Junior High School will be accomplished to the maximum degree reasonably feasible by adding Frost Junior High School to the cluster. The effect will be to:

— Add a 1,112 pupil school containing a 1979-80 resident area population made up of 76% white students and 24% minority students.

— Raise the total share of white students in the cluster from 46% to 54%.

One hundred twenty-five of the 246 minority students previously scheduled to be transported to Frost through the Permits with Transportation (PWT) program will be enrolled in Henry Junior High School, which will be desegregated by their arrival together with PWT students already scheduled to enroll there. The remaining 121 PWT students originally scheduled for Frost will be enrolled in Porter Junior High School, which will then be desegregated in the same way.

None of the PWT students previously scheduled to be enrolled in Henry and Porter will be displaced by these additional assignments.

Court Area 2

The September 4 Court of Appeal Order exempting one school from the four school cluster intended by the August 25 Order of this court to desegregate Filmore elementary school does not substantially impair the desegregation capacity of the remaining schools in that cluster. Thus no further change will be made in its makeup, and it will operate as a triad.

1. Cluster desegregating Haddon elementary school.

This cluster is designed to desegregate a racially isolated minority school (Haddon) which had a 1979-80 resident area population of 1,183 students of whom 1,130 (96%) were minority. The effects of the September 4 Supplemental Order of the Court of Appeal upon the plan for cluster operation made pursuant to the August 25 Order of this court are the following:

— Removal of two schools (Oakdale and Oso) containing a 1979-80 combined resident area population of 535, of whom 65% were white and 35% minority students.

— Reduction in the total share of white students in the cluster from 46% to 41%.

The desegregation of Haddon will be achieved to the maximum extent reasonably feasible by adding to the cluster Hamlin and Haynes schools. The effect will be to:

— Add two schools containing a combined resident population of 485, of whom 82% are white and 18% are minority students.

— Raise the total share of white students in the cluster from 41% to 48%.

Planning has been proceeding on the basis that 137 minority students would be sent through PWT to Hamlin, and 133 to Haynes. Instead, 82 of these students will be assigned to Oso School, 100 to Tulsa Street and 88 to Limerick. The desegregated

racial/ethnic balance of these schools will not be disturbed by addition of these students, nor will there be any displacement of returning PWT students who attended them in 1979-80.

2. Cluster desegregating Pacoima elementary school.

This cluster is designed to desegregate a racially isolated minority school (Pacoima) which had a 1979-80 resident area population of 1,469 students, of whom 1,454 (99%) were minority. The effects of the September 4 Supplemental Order of the Court of Appeal upon the plan for cluster operations made pursuant to the August 25 Order of this court are the following:

— Removal of two schools (Anatola and Garden Grove) containing a combined 1979-80 resident area population of 399, of whom 67% are white and 33% are minority students.

— Reduction in the total share of white students in the cluster from 41% to 38%.

Desegregation of Pacoima elementary school will be accomplished to the maximum degree reasonably feasible by adding Wilbur school to the cluster. The effect will be to:

— Add a school containing a 1979-80 resident area population of 324, of whom 88% are white and 12% are minority students.

— Raise the total share of white students in the cluster from 38% to 43%.

Planning has been proceeding on the basis that 236 minority students would be satellite zoned from Union school in Court Area 10 to Wilbur in order to relieve overcrowding at Union school. Instead, 125 Union students will be satellite zoned to Colfax school; 75 Union students will be satellite zoned to Rio Vista; and 36 will be so zoned to Rhoda school. This can be accomplished without any displacement of returning PWT students who attended these schools in 1979-80.

3. Cluster desegregating Telfair elementary school.

This cluster is designed to desegregate a racially isolated minority school (Telfair) which had a 1979-80 resident area population of 1,265 students, of whom 1,218 (96%) were minority. The effects of the September 4 Supplemental Order of the Court of Appeal upon the plan for cluster operation made pursuant to the August 25 Order of this court are the following:

- Removal of two schools (Bertrand and Hesby) containing a 1979-80 combined resident area population of 543 (62% white students and 38% minority students).
- Reduction in the total share of white students in the cluster from 40% to 33%.

The desegregation of Telfair will be achieved to the maximum extent reasonably feasible by adding to the cluster Collier and Calabash schools. The effect will be to:

— Add two schools containing a combined resident area population of 418, of whom 82% are white students and 18% are minority students.

— Raise the total share of white students in the cluster from 33% to 41%.

Planning has been proceeding on the basis that 140 minority students would be satellite zoned from Union school (in Court Area 10) to Collier in order to relieve overcrowding at Union. Instead, 71 Union students will be satellite zoned to Anatola school and 69 Union students will be satellite zoned to Garden Grove. The 87 minority students previously scheduled to be transported to Calabash in the PWT program will be assigned to Gledhill elementary school, which can accept them without disturbing its roughly equivalent racial/ethnic balance and without displacing returning PWT students who attended Gledhill in 1979-80.

4. Cluster desegregating Pacoima Junior High School.

This cluster is designed to desegregate a racially isolated minority junior high school (Pacoima) which had a 1979-80 resident area population of 1,646 students, of whom 1,285 (78%) were minority. The effects of the September 4 Supplemental Order of the Court of Appeal upon the plan for cluster operation made pursuant to the August 25 Order of this court are the following:

- Removal of two schools (Portola J.H.S. and Mulholland J.H.S.) containing a 1979-80 combined resident area population of 1,422 of whom 77% are white students and 23% are minority students.
- Reduction in the total share of white students in the cluster from 47% to 22%.

The desegregation of Pacoima Junior High School will be achieved to the maximum extent reasonably

feasible by adding to the cluster Parkman and Hale Junior High schools. The effect will be to:

- Add two schools containing a combined resident area population of 1,576, of whom 84% are white and 16% minority students.
- Raise the total share of white students in the cluster from 22% to 52%.

Planning has been proceeding on the basis that 1,000 minority PWT students would be sent to Parkman J.H.S. and Hale J.H.S. Instead, 352 PWT students will be assigned to Portola J.H.S., 302 PWT students will be assigned to Mulholland J.H.S. and 346 to Madison Junior High School. This can be accomplished while maintaining a roughly equivalent racial/ethnic balance at these schools, and without displacing any returning PWT students who attended these schools in 1979-80.

5. Cluster desegregating Maclay Junior High School.

This cluster is designed to desegregate a racially isolated minority school (Maclay Junior High School) which had a 1979-80 resident area population of 1,308 students, of whom 1,160 (84%) were minority. The effects of the September 4 Supplemental Order of the Court of Appeal upon the plan for cluster operation made pursuant to the August 25 Order of this court are the following:

- Removal of one school (Madison J.H.S.) containing a 1979-80 combined resident area population of 1,434, of whom 69% were white students and 31% were minority students.
- Reduction in the total share of white students in the cluster from 55% to 47%.

The desegregation of Maclay will be achieved to the maximum extent reasonably feasible by adding to the cluster Hughes Junior High School. The effect will be to:

- Add a school containing a resident area population of 1,126 students, of whom 88% are white and 12% are minority students.
- Raise the total share of white students in the cluster from 47% to 58%.

Planning has been proceeding on the basis that 807 minority students would be sent through PWT to Hughes. Instead, 300 of these PWT students will be assigned to Byrd Junior High school, 158 to Webster J.H.S., 157 to Palms J.H.S., and 192 to Revere J.H.S. The desegregation racial/ethnic balance of these students will not be disturbed by addition of these students, nor will there be any displacement of returning PWT students who attended them in 1979-80.

Court Area 3

1. Cluster desegregating Victory elementary school.

This cluster is designed to desegregate a racially isolated minority school (Victory) which had 1979-80 resident area population of 876 students, of whom 624 (71%) were minority. The effects of the September 4 Supplemental Order of the Court of Appeal upon the plan for cluster operation made pursuant to the August 25 Order of this court, are the following:

- Removal of a school (Colfax) containing a 1979-80 combined resident area population of 377, of whom 81% were white students and 19% were minority students.
- Reduction in the total share of white students in the cluster from 49% to 39%.

The desegregation of Victory will be achieved to the maximum extent reasonably feasible by adding to the cluster Lankershim and Carpenter schools. The effect will be to:

— Add two schools containing a combined resident area population of 726, of whom 57% are white students and 43% are minority students.

— Raise the total share of white students in the cluster from 39% to 46%.

2. Cluster desegregating Lankershim elementary school.

This cluster is designed to desegregate a racially isolated minority school (Lankershim) which had a 1979-80 resident area population of 389 students, of whom 269 (69%) were minority. The effects of the September 4 Supplemental Order of the Court of Appeal upon the plan for cluster operation made pursuant to the August 25 Order of this court are the following:

— Removal of one school (Rio Vista) containing a 1979-80 combined resident area population of 374, (68% white students and 32% minority students).

— Reduction in the total share of white students in the cluster from 60% to 57%.

As noted above, the combining of the remaining two schools with Burbank and Victory makes it possible to desegregate both Victory and Lankershim schools.

Court Area 5

The September 4 Supplemental Order of the Court of Appeal removed the two predominantly white junior high schools from the three-school cluster intended to desegregate Pasteur Junior High School. This cannot be remedied by combination of Pasteur with any other school in Court Area 5, making it impossible to desegregate any minority junior high school in that Area.

The only remediable change made by the September 4 Order of the Court of Appeal in this Court Area affects the cluster designed to desegregate Hillcrest elementary school. This school had a 1979-80 resident area population of 1,027 students, of whom, 1,023 (99%) were minority. This court's Order

concerning Magnet schools, dated August 20, 1980, created a Center for Enriched Studies on the Hillcrest campus and directed that 300 minority students from the Hillcrest resident area be satellite zoned to naturally desegregated schools which could accept them without becoming segregated.

The change in the cluster effected by the Court of Appeal is to remove Bellagio school from the triad, leaving Westwood paired with Hillcrest. This pair can desegregate Hillcrest if the regular Hillcrest enrollment is further reduced through satellite zoning. Accordingly:

- 47 Hillcrest resident area students will be satellite zoned to Bellagio.
- 130 other Hillcrest resident area students will be satellite zoned to other desegregated schools in Court Area 5 that can accept them without becoming segregated thereby.
- The Hillcrest Center for Enriched Studies will be increased in size by 150 pupils, 75 of

whom will be selected from the Hillcrest resident enrollment.

Other Court Areas

The September 4 Supplemental Order of the Court of Appeal requires no changes in the groupings established in Court Areas 4 and 6 by the August 25 Order of this court.

Pupil Exchange Arrangements

The pupil exchange arrangements for all school groupings included within the Order of this court of August 25 have been prepared by District Area Integration Teams, Area Superintendents, and central integration staff in close consultation with the court's Special Monitors. The District has a demonstrated capacity to fashion such arrangements with efficiency, sensitivity, and dispatch. In the light of this capacity, the respondent Board is ordered to direct its staff immediately to prepare proposed pupil exchange arrangements for each of the revised clusters listed

above, and to submit them to his court as required herein.

DATED: September 12, 1980

/ss/EGLY
Judge

COURT OF APPEAL, ORDER, DATED OCTOBER 2, 1980

THE COURT:

One or more appeals have been taken from the orders of the trial court in this cause involving mandatory pupil reassignment and pupil transportation. On August 6, 1980, we issued an order shortening time for the various steps in the appeal. Thereafter, on August 27, 1980, the Supreme Court recommended that this court further accelerate the progress of appeal. We are advised by the Superior Court of Los Angeles County that the clerk's transcript in this cause will be completed on or before Wednesday, October 15, 1980, but that it cannot tell us when a reporter's transcript will be filed.

Pursuant to our authority under Rules 12, 45, 52, and 53 of the California Rules of Court, we hereby order as follows:

Preparation of formal reporter's transcripts of the various oral proceedings in the trial court is dispensed with.

The following briefing and argument schedule will be observed: Appellant or appellants will file opening briefs on or before Wednesday, November 5, 1980; respondent or respondents will file reply briefs on or before Wednesday, November 26, 1980. Rebuttal briefs will be filed on or before Wednesday, December 3, 1980. The cause is ordered on calendar for oral argument on Monday, December 8, 1980, at 10 a.m. in our courtroom located on the second floor, 3580 Wilshire Blvd., Los Angeles.

Parties relying on oral proceedings in the trial court will set out the verbatim testimony of a witness or witnesses, or the text of the oral proceeding relied upon, in appendices to their respective briefs filed with this court. Such appendices will also include, to the extent practicable, copies of such exhibits as may be necessary, and pertinent extracts of exhibits and

testimony in the original proceedings in 1970. Parties will be guided in the preparation of appendices, to the extent practicable, by rule 30, Federal Rules of Appellate Procedure.

Appellant Board shall personally serve respondents, the trial judge, and the county clerk with copies of this order and file an affidavit of service with the clerk of this court on or before October 6, 1980. All briefs and appendices shall be personally served upon the parties, and affidavits of service thereof shall be filed with the clerk of this court.

COURT OF APPEAL, ORDER, DATED OCTOBER 8, 1980

Appellant's motion to bifurcate its appeals is granted. The appeal from the trial court's order of May 19, 1980 will be governed by our expediting order of October 2, 1980.

The appeals from the trial court's order of July 7, 1980 will be governed by our expediting order of August 6, 1980, except that a reporter's transcript is dispensed with in accordance with the provisions of our order of October 2, 1980.

COURT OF APPEAL, OPINION, DATED DECEMBER 19, 1980

[This is set out as Appendix A to the Petition for Writ of Certiorari, pp. 1A-71A.]

LOS ANGELES UNIFIED SCHOOL DISTRICT

RACIAL AND ETHNIC ENROLLMENTS

GRADES K-12

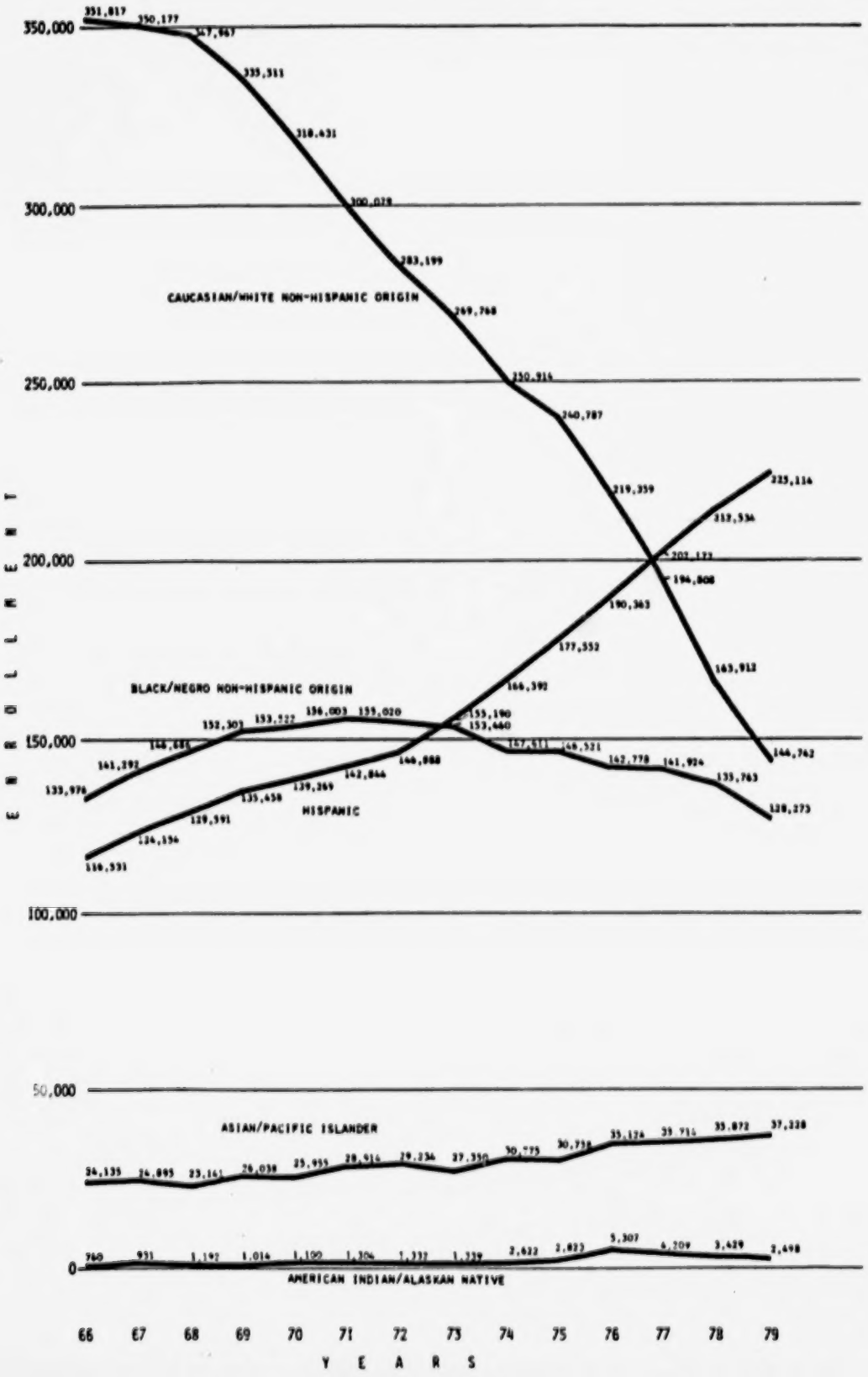

Exhibit II-1.

[1 R.T. 19]

COMPARE 1979 ACTUAL ETHNIC ENROLLMT AND 1980 ACTUAL AS OF 10/10/80 DATE 101080 PAGE 639

1979 ACTUAL ENROLLMENT

	GRADE	TOTAL	OW	%OW	CM	%CM	BL	%BL	HIS	%H	AF	%AF	AI	%AI
DISTRICT TOTAL	K	40392	7242	17.9	33150	82.1	7221	17.9	23342	57.8	2530	6.3	57	.1
DISTRICT TOTAL	01	41896	7043	16.7	34048	81.3	7640	18.7	23400	55.9	2715	6.5	93	.2
DISTRICT TOTAL	02	40813	8230	20.2	32583	79.8	8262	20.2	21338	52.3	2839	7.0	114	.3
DISTRICT TOTAL	03	42369	9275	21.9	33094	78.1	9174	21.7	20736	48.9	3011	7.1	171	.4
DISTRICT TOTAL	04	42904	10147	23.7	32757	76.3	9997	23.3	19561	45.6	3015	7.0	164	.4
DISTRICT TOTAL	05	41813	10258	24.5	31555	75.5	10092	24.1	18160	43.4	3074	7.4	229	.5
DISTRICT TOTAL	06	39382	10160	25.8	29162	74.2	9770	24.9	16353	41.6	2802	7.1	229	.6
DISTRICT TOTAL	07	40066	10881	27.2	29185	72.8	10563	26.4	15729	39.3	2637	6.6	256	.6
DISTRICT TOTAL	08	40614	11419	28.1	29195	71.9	11015	27.1	15171	37.4	2710	6.7	299	.7
DISTRICT TOTAL	09	41071	13201	31.5	28070	68.5	11042	26.4	14439	34.5	2849	6.8	341	.8
DISTRICT TOTAL	10	46523	15724	33.8	30799	66.2	11844	25.5	15532	33.4	3217	6.9	366	.8
DISTRICT TOTAL	11	41025	15376	37.5	25649	62.5	10815	26.4	11741	28.6	2931	7.1	162	.4
DISTRICT TOTAL	12	33684	13848	40.9	20036	59.1	9260	27.4	7856	23.2	2761	8.1	151	.4
DISTRICT TOTAL	U	4363	1133	26.0	3230	74.0	1362	31.2	1734	39.7	103	2.5	26	.6
DISTRICT TOTAL	K-3	165470	32595	19.7	132875	80.3	32497	19.6	88018	53.7	11125	6.7	435	.3
DISTRICT TOTAL	1-3	125078	25353	20.3	99725	79.7	25276	20.2	65476	52.3	8595	6.9	378	.3
DISTRICT TOTAL	4-6	124039	30565	24.6	93474	75.4	29667	24.1	54094	43.6	8891	7.2	692	.5
DISTRICT TOTAL	1-6	249117	55918	22.4	193199	77.6	55143	22.1	119570	48.0	17486	7.0	1000	.4
DISTRICT TOTAL	K-6	289509	63160	21.8	226349	78.2	62364	21.5	142912	49.4	20016	6.9	1057	.4
DISTRICT TOTAL	7-9	122551	35501	29.0	87050	71.0	32620	26.6	45339	37.0	8195	6.7	696	.7
DISTRICT TOTAL	10-12	121432	44948	37.0	76484	63.0	31927	26.3	35129	28.9	8909	7.3	519	.4
DISTRICT TOTAL	1-9	371668	91419	24.6	280249	75.4	87763	23.6	164909	44.4	25681	6.9	1896	.5
DISTRICT TOTAL	TOT	537055	144742	26.9	393113	73.1	120273	22.8	228114	41.9	37228	6.9	2491	.5

1979

1980 ACTUAL ENROLLMENT

	GRADE	TOTAL	OW	%OW	CM	%CM	BL	%BL	HIS	%H	AF	%AF	AI	%AI
DISTRICT TOTAL	K	41039	6393	15.6	34646	84.4	7180	17.5	24915	60.7	2444	6.0	107	.3
DISTRICT TOTAL	01	42003	6334	15.1	35669	84.9	8015	19.1	24892	59.2	2686	6.4	86	.2
DISTRICT TOTAL	02	40970	6605	16.1	33893	83.9	7901	19.6	22955	56.9	2919	7.2	118	.3
DISTRICT TOTAL	03	39039	7006	17.8	32333	82.2	8124	20.7	21178	53.8	2926	7.4	107	.3
DISTRICT TOTAL	04	40978	7929	19.3	33049	80.7	9016	22.0	20863	50.9	2956	7.2	204	.5
DISTRICT TOTAL	05	41749	9059	21.7	32690	78.3	9784	23.4	19630	47.0	3090	7.4	170	.4
DISTRICT TOTAL	06	41018	9477	23.1	31541	76.9	10031	24.5	18279	44.6	3020	7.4	211	.5
DISTRICT TOTAL	07	38957	9823	25.2	29134	74.8	9850	25.3	16241	41.7	2787	7.2	246	.6
DISTRICT TOTAL	08	39324	10254	26.1	29070	73.9	10153	25.8	15044	40.3	2818	7.2	255	.6
DISTRICT TOTAL	09	40194	10929	27.2	29265	72.8	10608	26.4	15351	38.2	2969	7.4	337	.8
DISTRICT TOTAL	10	46221	13867	30.0	32354	70.0	11086	24.0	17317	37.5	3767	8.1	184	.4
DISTRICT TOTAL	11	42213	14475	34.3	27738	65.7	11427	27.1	12940	30.7	3210	7.6	151	.4
DISTRICT TOTAL	12	31320	12354	39.4	10966	60.6	8330	26.6	7760	24.8	2704	8.6	164	.5
DISTRICT TOTAL	U	4720	1269	26.9	3451	73.1	1605	34.0	1690	35.8	139	2.9	17	.4
DISTRICT TOTAL	K-3	162759	26218	16.1	136541	83.9	31220	19.2	93930	57.7	10975	6.7	416	.3
DISTRICT TOTAL	1-3	121720	19025	16.3	101895	83.7	24040	19.8	69015	56.7	8531	7.0	307	.3
DISTRICT TOTAL	4-6	123745	26465	21.4	97280	78.6	28831	23.3	58780	47.5	9076	7.3	581	.5
DISTRICT TOTAL	1-6	245465	46290	18.9	199175	81.1	52871	21.5	127795	52.1	17607	7.2	903	.4
DISTRICT TOTAL	K-6	286504	52683	18.4	233821	81.6	60051	21.0	152710	53.3	20051	7.0	1093	.4
DISTRICT TOTAL	7-9	118475	31006	26.2	87469	73.8	30619	25.8	47436	40.0	8574	7.2	840	.7
DISTRICT TOTAL	10-12	119754	40696	34.0	79058	66.0	30843	25.8	38025	31.8	9661	8.1	509	.4
DISTRICT TOTAL	1-9	363940	77296	21.2	286644	78.8	83490	22.9	175231	48.1	26181	7.2	1743	.5
DISTRICT TOTAL	TOT	529453	125654	23.7	403798	76.3	123110	23.3	239661	45.3	30145	7.3	2075	.4

1980 RACIAL + ETHNIC DATA

Exhibit II-2

EXHIBIT II-521, RESOLUTION BY BOARD OF EDUCATION FROM MINUTES OF JUNE 18, 1979
[57 R.T. 8515]

MINUTES, REGULAR MEETING
BOARD OF EDUCATION,
CITY OF LOS ANGELES
JUNE 18, 1979
3:20 p.m.

* * *

The President called upon Mrs. Fiedler to present her noticed resolution, postponed from the Regular Meeting, June 11, 1979.

Mrs. Fiedler moved the adoption of the following resolution:

WHEREAS the Board of Education of the Los Angeles Unified School District feels that integration of its schools is a proper goal; and

WHEREAS such integration should take place in a setting chosen by each student and his/her parents; and

WHEREAS the federal courts of the United States have clearly stated that segregation resulting from neighborhood housing patterns is not the responsibility of school boards to correct; and

WHEREAS the federal courts have stated clearly that only intentional acts of boards of education and their incremental effects must be remedied; and

WHEREAS the state courts of California have taken a wholly different view of this matter requiring desegregation regardless of the cause of segregation; and

WHEREAS Senate Constitutional Amendment 2 will require the courts of California to comply with the rulings of the federal courts in the area of desegregation; and

WHEREAS Senate Constitutional Amendment 2 has been duly passed by the California legislature and is awaiting passage by the voters; and

WHEREAS Senate Bill 217 would bring about a special election on November 6, 1979: Now, therefore, be it

RESOLVED, That the Board of Education of the Los Angeles Unified School District hereby requests the Legislature of California to ratify Senate Bill 217 at the earliest moment to allow the electorate to vote on this extremely important issue; and be it

FURTHER RESOLVED, That the Board of Education of the Los Angeles Unified School District endorses Senate Constitutional Amendment 2; and be it

FURTHER RESOLVED, That the Superintendent be instructed to arrange a meeting between those members of this Board

favoring this resolution and the Governor to urge his signing of S.B. 217 when it reaches his desk.

Said motion was seconded by Dr. Ferraro.

Mrs. Fiedler noted that today the legislature passed S.B. 217 and it will be going to the Governor for signature.

During the discussion that followed, Dr. Nava requested, and was granted, a separation of the two resolutions contained in the motion, for voting purposes.

President Bardos requested that the resolution be amended by deleting the second and third "WHEREAS" paragraphs; and that the first "RESOLVED" be amended to reflect the State Legislature's present status on the matter. The amendments were accepted by the maker and the seconder of the motion.

Roll call on that portion of the motion to adopt the first "RESOLVED" resulted in the following vote:

Ayes: Dr. Ferraro, Mrs. Fiedler, Dr. Nava, Mrs. Weintraub, President Bardos 5

Noes: Father Bohler 1

The President declared the first "RESOLVED" carried.

Roll call on that portion of the motion to adopt the second "RESOLVED" resulted in the following vote:

Ayes: Dr. Ferraro, Mrs. Fiedler, Mrs. Weintraub, President Bardos 4

Noes: Father Bohler 1

Abstained from voting: Dr. Nava 1

The President declared the second "RESOLVED" carried and the resolution, as amended, adopted in its entirety.

The wording of the motion, as amended and adopted, is as follows:

WHEREAS the Board of Eduction of the Los Angeles Unifed School District feels that

integration of its schools is a proper goal; and

WHEREAS the federal courts have stated clearly that only intentional acts of boards of education and their incremental effects must be remedied; and

WHEREAS the state courts of California have taken a wholly different view of this matter requiring desegregation regardless of the cause of segregation; and

WHEREAS Senate Constitutional Amendment 2 will require the courts of California to comply with the rulings of the federal courts in the area of desegregation; and

WHEREAS Senate Constitutional Amendment 2 has been duly passed by the California legislature and is awaiting passage by the voters; and

WHEREAS Senate Bill 217 would bring about a special election on November 6, 1979:

Now, therefore be it

RESOLVED, That the Board of Education of the Los Angeles Unified School District hereby supports the Legislature of the State of California in its passage of Senate Bill 217 which will allow the electorate to vote on this extremely important issue; and be it

FURTHER RESOLVED, That the Board of Education of the Los Angeles Unified School District endorses Senate Constitutional Amendment 2; and be it

FURTHER RESOLVED, That the Superintendent be instructed to arrange a meeting between those members of this Board favoring this resolution and the Governor to urge his signing of S.B. 217 when it reaches his desk.